

Joyce Lawrence, 3/19/2014

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1                   UNITED STATES DISTRICT COURT  
2                   SOUTHERN DISTRICT OF OHIO  
3                   WESTERN DIVISION  
4  
5     HEALTHY ADVICE           :  
6     NETWORKS, LLC,           :  
7                   :  
8     Plaintiffs,           :  
9                   :  
10                  vs.           : CASE NO. 1:12cv00610  
11                  :  
12     CONTEXTMEDIA, INC.,    :  
13                  :  
14                  Defendants.   :  
15

16                  Deposition of JOYCE LAWRENCE, a witness  
17     herein, taken by the defendants as upon  
18     cross-examination, pursuant to the Federal  
19     Rules of Civil Procedure and pursuant to  
20     Notice of counsel as to the time and place  
21     and stipulations hereinafter set forth, at  
22     the offices of Thomas Hankinson, Esq.,  
23     Keating Muething & Klekamp, One East Fourth  
24     Street, Suite 1400, Cincinnati, Ohio, at 1:35  
p.m., Wednesday, March 19, 2014, before  
Valerie Jones Conn, a Registered Professional  
Reporter, Certified Realtime Reporter, and  
Notary Public within and for the State of  
Ohio.

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1 APPEARANCES

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3 FOR THE PLAINTIFFS: Aaron Bernay, Esq.  
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## 1 STIPULATIONS

2 It is stipulated by counsel for the  
3 respective parties that the deposition of  
4 JOYCE LAWRENCE, a witness herein, may be  
5 taken at this time by the defendants as upon  
6 cross-examination and pursuant to the Federal  
7 Rules of Civil Procedure and Notice of  
8 counsel to take deposition, all other legal  
9 formalities being waived by agreement; that  
10 the deposition may be taken in stenotype by  
11 the Notary Public Reporter and transcribed by  
12 her out of the presence of the witness; that  
13 the transcribed deposition was made available  
14 to the witness for examination and signature  
15 and that signature may be affixed out of the  
16 presence of the Notary Public-Court Reporter.

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6 BY MR. HANKINSON:

7 Q. Good afternoon.

8 A. Hi.

9 Q. Ms. Lawrence?

01:35 10 A. Yes.

11 Q. I'm Tom Hankinson. I'm a lawyer

12 for ContextMedia, which is the defendant in

13 this case. Do you understand who the

14 plaintiff is in this case?

15 A. Yes.

16 Q. And is that your employer,  
17 PatientPoint?

19 Q. And PatientPoint was formerly  
01:35 20 known as Healthy Advice Networks?

21 A. Yes.

22 Q. Have you ever been deposed  
23 before?

24 A. No. First time.

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1                   Q.     Ever given any testimony in  
2     court?

3                   A.     No.

4                   Q.     I'll just run over a few small,  
5     you can call them ground rules or guidelines.

6                   I'll be asking questions, you'll be  
7     responding. Val is going to be taking down  
8     the questions and answers so it's helpful if  
9     we try not to talk over each other. You've

01:36           10     done excellent at that so far. Sometimes I  
11     stumble, pause, have long pauses in my  
12     questions as I'm thinking. If you could work  
13     with me to make sure I'm finished with the  
14     question and I'll try to wait until you're  
15     completely finished with your answer before I  
16     ask the next question. Another thing is that  
17     we need to give all responses out loud, so no  
18     -- we shouldn't shake, you know, head or say  
19     uh-huh because uh-huh can be ambiguous so we  
01:36           20     try to say yes or no. And I'll try to -- I  
21     tend to gesticulate like this. If there's  
22     ever anything that you think I'm moving my  
23     hands around and it's part of the question  
24     that's not going to get down, remind me to

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1 make sure that I'm saying everything out loud  
2 and I'll try to remind you to answer out  
3 loud, as well.

4 A. Okay.

5 Q. And I'll ask you to speak up a  
6 little bit. In these afternoon sessions a  
7 lot of times we can kind of start to whisper.  
8 I do that, too; I'll try to keep my volume  
9 up, so do you understand that?

01:37 10 A. Yes.

11 Q. If you ever need a break, go  
12 ahead and ask for one --

13 A. Okay.

14 Q. -- and that's fine. If you need  
15 water, a bathroom break or just to take a  
16 break for any reason, let us know.

17 A. Okay.

18 Q. You'll have to answer the  
19 pending question; if I've asked a question,  
01:37 20 you'll have to answer it and then we'll take  
21 a break. Okay?

22 A. Uh-huh.

23 Q. Sometimes Aaron may object to a  
24 question that I've asked. He'll state his

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1       objection and then, unless he instructs you  
2       not to answer, you should go ahead and  
3       answer. If he wants you to not answer the  
4       question he'll tell you I instruct you not to  
5       answer. Do you understand that?

6           A.       Uh-huh. Yes. I understand  
7       that. Sorry.

8           Q.       And then if you do answer a  
9       question I'm going to assume that you  
01:38 10      understood it. Is that okay?

11       A.       Yes.

12       Q.       If there's ever any part of a  
13      question that you don't understand, please  
14      feel free to ask me to repeat it or rephrase  
15      it. Okay?

16       A.       Uh-huh.

17       Q.       Anything I've missed? If you  
18      think of something later, pipe up.

19           MR. BERNAY: We're good to go.

01:38 20      Let's go.

21       Q.       All right. Would you please  
22      state your name and spell your last name?

23       A.       Yes. Joyce Lawrence,  
24      L-A-W-R-E-N-C-E.

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1 Q. What is your current job title?

2 A. Well, I work at PatientPoint and  
3 I'm a practice relations rep.

4 Q. A practice relations  
5 representative?

6 A. Yes.

7 Q. And what department or group is  
8 that in?

9 A. It's -- it's kind of like  
01:39 10 customer service.

11 Q. Who is the -- do you refer to it  
12 as department or team or a group?

13 A. We're a team.

14 Q. A team. And who's the head of  
15 that team?

16 A. Amy Finley and Heather McGovern.

17 MR. BERNAY: You may want to  
18 speak up a little bit for the court  
19 reporter --

01:39 20 A. Okay.

21 MR. BERNAY: -- if possible.

22 Q. If you need coffee --

23 MR. BERNAY: Or Mountain Dew.

24 Q. Right. Is your group sometimes

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1 referred to as, like, customer relationship  
2 management?

3 A. Yes.

4 Q. Is that the official title of  
5 it?

6 A. I would say yes.

7 Q. Are Amy Finley and Heather  
8 McGovern on the same level in terms of their  
9 positions or does one report to the other?

01:40 10 A. One reports to the other. Amy  
11 first and then Heather under her.

12 Q. Are there other people that have  
13 Heather's level of position with different  
14 people reporting to them and then up to Amy  
15 through them, or is Heather the only person  
16 at that level in the chain of command?

17 MR. BERNAY: I'm going to object  
18 to the form. You can answer.

19 A. Well, that's all that I know of  
01:40 20 right now. I mean, there's just -- just Amy  
21 and then when I was hired it was Amy and then  
22 Heather was made the next in line, I guess a  
23 supervisor under her.

24 Q. What is Heather's title?

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1 A. Assistant supervisor.

2 Q. And what is Amy's title?

3 A. She's -- gosh, I don't know the  
4 exact title for her -- relations manager. I  
5 don't know what she actually goes by but she  
6 is who we report to. She is our manager.

7 Q. She's the head of the customer  
8 relation management team?

9 A. Uh-huh. Yes.

01:41 10 Q. Who else is a member of your  
11 team?

12 A. We have about 11 people now. We  
13 have Carrie Shank -- my mind's blank.

14 Q. Is Lori Smith on your team?

15 A. Yes, Lori Smith.

16 Q. Did you ever work with Melissa  
17 Lake?

18 A. Yes, Melissa Lake.

19 Q. Is she an employee or a former  
01:42 20 employee?

21 A. She is a former employee.

22 Q. About when did she leave the  
23 company, if you remember?

24 A. I believe it was maybe

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1 September, September or October of 2013.

2 Q. Do you recall any other members  
3 of your team?

4 A. Yes. There is Gail -- trying to  
5 think of her last name, she's kind of new --  
6 and then we have Lucy Johnston. Trying to  
7 think.

8 Q. I'm really sorry to have to  
9 remind you but you need to speak up --

01:43 10 A. Okay.

11 Q. -- okay? I'm sorry. I'm having  
12 trouble hearing you.

13 A. There's Lucy Johnston and then  
14 there's Suzanna Schmidt.

15 Q. What are your job  
16 responsibilities?

17 A. I take incoming calls and then I  
18 also call the customer to make sure  
19 everything is working okay. If a sales rep  
01:43 20 goes out and updates information on their  
21 displays I call to make sure everything is  
22 working, that the representative did go out  
23 and make updates to make sure they did fill  
24 the displays. If there's something broken on

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1 a display I'll make sure it does get fixed.  
2 I call and make the appointment to make sure  
3 that they did -- I'll make the appointment to  
4 make sure that a rep goes out and replaces a  
5 display or I can send a part out to fix that  
6 display. We do periodically call and, well,  
7 a lot -- make updates to the monitor's  
8 messages. We want to make sure that they do  
9 every -- at least every three months make a  
01:44 10 change to their messages.

11 Q. When you say the monitor's  
12 message, are you referring to the custom  
13 messages that are provided by doctor's office  
14 or practice?

15 A. Yes.

16 Q. And you're saying it's a goal of  
17 your group to ensure that the practices  
18 update their custom messages every so often?

19 A. Yes, to keep them fresh for the  
01:45 20 patients while they wait.

21 Q. Is that important for patients?

22 A. Yes. We -- I feel it is so it  
23 doesn't get repetitive. Plus, we've changed  
24 it a lot lately so that you can add pictures;

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1       it can download pictures of the physicians,  
2       kind of keep it fresh. I don't feel that  
3       they -- a lot of them do not know that, that  
4       they can do that now. They could add  
5       pictures that they can download from their  
6       computer, put up on a portal then put a  
7       message up with them, put up new doctors,  
8       welcome them to the practice in case the  
9       patients don't know. It's a lot of neat  
01:45 10      things that they can do that they're not  
11      aware of. Only way they can know is if we  
12      tell them.

13           Q.      And if a patient sees the same  
14      content up on the screen over and over again  
15      it can get repetitive and boring?

16           A.      I feel it does. I know when I  
17      go to my doctor's office I see that.

18           Q.      Do you know what system your  
19      doctor has?

01:46 20           A.      It is PatientPoint.

21           Q.      Have you seen PatientPoint's  
22      content outside of your own doctor's office?

23           A.      Just my doctor's office  
24      actually.

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1                   Q.        So none of your training at  
2 PatientPoint involved watching the content?

3                   A.        Of ours? Yes. I mean, I've  
4 watched it in our office. We have it in our  
5 break room --

6                   Q.        Oh.

7                   A.        -- our meeting room.

8                   Q.        Which network is in your break  
9 room?

01:46 10                   A.        Our PatientPoint information for  
11 the primary care.

12                   Q.        PCN, Primary Care Network?

13                   A.        Yes.

14                   Q.        And how long has that been up in  
15 the break room?

16                   A.        It's actually our meeting, like  
17 our meeting room. Since I've started.

18                   Q.        When was that?

19                   A.        2010, August.

01:47 20                   Q.        Has the content that's displayed  
21 on that network changed since 2010?

22                   A.        Yes.

23                   Q.        What types of changes have been  
24 made?

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1           A.     All the updates that they've  
2     done with different content, the content's  
3     always changing usually every month. Every  
4     time it does change, it changes on that  
5     monitor, also.

6           Q.     Why do they change it so  
7     frequently?

8           A.     Because the information, medical  
9     information's always changing so they keep  
01:47 10    that all updated. Whatever they're changing  
11    for PCN is being changed on that monitor so  
12    that we're updated.

13          Q.     Is it just a matter of changing  
14    the individual segments or does the style or  
15    kind of how the information is conveyed, does  
16    that change over time, as well?

17          A.     It does change over time.

18          Q.     And how has that changed since  
19    2010?

01:47 20          A.     The pictures have changed.  
21    They're not so cartoonish. I know some  
22    people call it Power Point but it's not Power  
23    Point. It's really up to date.

24          Q.     What did you mean by cartoonish?

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1           A.       There are a lot of -- like it  
2       looks like it used to be kind of cartoon, I  
3       want to say more of a cartoon figure rather  
4       than a real person in the picture.

5           Q.       And are those still photos that  
6       you're referring to?

7           A.       Uh-huh.

8           Q.       Yes?

9           A.       Yes. I'm sorry. Yes.

01:48 10          Q.       So you're saying that since 2010  
11       the still photos that have been on the PCN  
12       network have appeared to you as going from  
13       more cartoonish to being more like pictures  
14       of actual people?

15          A.       Yes. Uh-huh.

16          Q.       And has that been more engaging,  
17       in your opinion?

18          A.       I feel, yes.

19          Q.       Has anybody told you that  
01:49 20       PatientPoint has worked on improving its  
21       content?

22          A.       They haven't told me. I just  
23       have noticed it myself. We always have  
24       someone upstairs in creative. We send our

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1 ideas up to them. They're always open for  
2 ideas. If -- if a practice wants to -- if  
3 they suggest something, we forward that on to  
4 creative also. We're open for ideas so it  
5 starts with us.

6 Q. Do you think it's important that  
7 feedback from the practices about the content  
8 is passed along to creative and acted on?

9 A. Yes.

01:49 10 Q. And why is that?

11 A. Because we want to please the  
12 customer.

13 Q. If the customer's not pleased  
14 then there's a risk that either television or  
15 a competitor would come in and replace the  
16 network, right?

17 A. Sometimes.

18 Q. Is that one of the main reasons  
19 that it's important to get feedback from the  
01:50 20 customer about the content?

21 A. Yes. I mean, there's always  
22 something out there. Lot of times TV --  
23 well, we always offer that we can coexist but  
24 we always want to keep the customer happy.

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1                   Q.        So when you say there's a lot of  
2       things out there, sometimes TV, what are the  
3       other things?

4                   A.        There's always a competitor.

5                   Q.        What competitors have you come  
6       across?

7                   A.        There's Accent Health and  
8       ContextMedia.

9                   Q.        Are there any other competitors  
01:50 10      that you're familiar with?

11                  A.        Those are the only two that I  
12      can think of right now.   TV.

13                  Q.        In your work have you ever come  
14      across a company called Health Monitor?

15                  A.        Yes, yes.

16                  Q.        Is that another competitor?

17                  A.        Yes.

18                  Q.        Have you ever come across a  
19      competitor called Health Media Networks?

01:51 20                  A.        Yes.

21                  Q.        What about --

22                  A.        That's not the same as Health  
23      Monitor.

24                  Q.        Have you ever come across a

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1 competitor called Health Focus Media?

2 A. I don't recall that.

3 Q. What about Everwell TV?

4 A. I have seen that one.

5 Q. What about Care Media?

6 A. I don't recall that one.

7 Q. Is another competitor

8 Healthcasts Professional Television Network?

9 A. I haven't ran into that one.

01:52 10 Q. Have you come across Medlink  
11 International in your work?

12 A. I haven't seen that one.

13 Q. What about Smart Health Network?

14 A. I haven't ran into it but I have  
15 seen those maybe on line or on the internet  
16 but I haven't ran into it myself.

17 Q. You're aware that Smart Health  
18 Network is a competitor of PatientPoint?

19 A. I think so, yeah. I just  
01:52 20 haven't used it. I haven't had anybody come  
21 in with that one yet.

22 Q. Does your team share information  
23 that you get from the calls that you receive  
24 and make among the team?

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1 A. Yes.

2 Q. How often?

3 A. We have a meeting once a week.

4 It doesn't always come up every week but we  
5 have the chance to bring it up.

6 Q. Bring what up?

7 A. If there's something, like,  
8 urgent or if there's a lot of competitor  
9 information to be brought up, like if it  
01:53 10 happens a lot we have the chance to bring it  
11 up or talk about it on our weekly meetings  
12 that we have every Friday.

13 Q. Every Friday?

14 A. Uh-huh.

15 Q. Just to give me an example, what  
16 did you talk about at your last team meeting?

17 A. I missed half of it so --

18 Q. Or the one before that. I just  
19 want to get a flavor.

01:53 20 A. We usually talk about new things  
21 that are coming up with our sales goals.  
22 Well, not so much sales because we don't ever  
23 sell, but our goals we have of trying to  
24 close orders, walking people through, walking

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1 the customers through our practice, wire our  
2 other monitor we have, walking them through  
3 on how to update the messages. We want to  
4 get these closed because we're going to  
5 have -- would have the reps going out to all  
6 the different offices to update the displays  
7 with new brochures, so that's coming up.

8 Well, that's already started this week so now  
9 that's going to bring up more work service  
01:54 10 orders because they're going to send that to  
11 us. Just these goals we have to get finished  
12 before new work service. Work is going to be  
13 sent out from the reps that are going out to  
14 update so we have certain goals we have to  
15 get done before that starts up.

16 Q. Part of the team meetings  
17 involves feedback from the whole team about  
18 trends that they're seeing and another part  
19 of the team meeting has to do with management  
01:54 20 communicating about goals and instructions  
21 for the coming week; is that fair to say?

22 A. Yes.

23 Q. Are there any other parts of the  
24 team meeting?

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1                   A.        Yeah.  We did have two people  
2        who got promoted so that was kind of a --  
3        kind of share that at the end of the meeting.

4                   Q.        That's good.  Lori Smith was  
5        one, right?

6                   A.        She was.

7                   Q.        I heard that yesterday.  That's  
8        great.

9                   A.        It was very nice.

01:55 10                   Q.        Who else, just for --

11                   A.        Laura Buegtnen.

12                   Q.        Thank you.

13                   A.        I didn't -- I can say her name  
14        but I can't spell it.

15                   Q.        That's a new one, too.

16                   A.        Sorry.

17                   Q.        No worries.  Buegtnen?

18                   A.        Buegtnen, B-U-E-G-T-T-E-N.

19                   Q.        In your time at PatientPoint  
01:55 20        have you discussed ContextMedia, including  
21        any of its networks, at team meetings?

22                   A.        Yes.

23                   Q.        About how often?

24                   A.        I'd say maybe, maybe once a

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1 month.

2 Q. Since 2010?

3 A. Gosh. I couldn't give you an  
4 accurate figure. I don't know that.

5 Q. But it's been regularly since  
6 2010?

7 A. Not every meeting. I mean, when  
8 it first -- I guess when they first started  
9 being noticed maybe every two weeks in the  
01:56 10 beginning.

11 Q. Because a new competitor on the  
12 scene was something remarkable and people  
13 wanted to share information about them?

14 A. And we were getting -- where I  
15 sat in my office I would see things coming  
16 back. We were receiving monitors and they  
17 were broken and they would sit near my desk  
18 until UPS would come and pick them up and  
19 take them back to the warehouse.

01:57 20 Q. You're saying that's why they  
21 were discussed at the team meetings?

22 A. We were trying to get a handle  
23 on it to find out why this was happening. We  
24 didn't realize that they were just being

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1      taken down without our knowledge and so we  
2      were trying to dig deep to find out, try to  
3      find out if we can prevent this from  
4      happening before it happened. Of course,  
5      it's kind of hard to do that but try to reach  
6      out to all the certain accounts that we had  
7      so -- to find out if we can stop it before it  
8      happened so that -- just to let them know,  
9      please, if you're going to do something, if  
01:58 10     you're going to remove our monitor, we have  
11     to know first.

12            Q.     And that became a regular part  
13     of your calls with practices?

14            A.     Yes.

15            Q.     Would you say that you and your  
16     team were successful in getting that message  
17     out?

18            A.     Not all the time, no.

19            Q.     In general though?

01:58 20            A.     We tried.

21            Q.     It was a goal of yours?

22            A.     It was.

23            Q.     And you implemented it in the  
24     way that you implement other business goals,

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1 right?

2 MR. BERNAY: Object to the form.

3 You can answer.

4 A. We tried to get in touch with  
5 them if we could, let them know if we could,  
6 before removing the monitor, let us know, one  
7 of our technicians have to remove it. Just  
8 has to be one of our technicians before it is  
9 removed.

01:59 10 Q. And so you would say that on  
11 calls with practices?

12 A. Yes, or maybe we didn't call  
13 each one to say before you remove that  
14 monitor. We didn't want them to remove it.  
15 We did contact them to kind of make touch and  
16 update their messages a little more often to  
17 make sure that they were engaged in working  
18 with the messages on the monitor and their  
19 program so we kind of get a feel to make sure  
01:59 20 that everything was okay.

21 Q. At one point PatientPoint sent  
22 out a letter to its practices about the fact  
23 that PatientPoint wanted them to allow a  
24 PatientPoint technician to take down monitors

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1 in the case of a switch out; is that right?

2 A. They did.

3 Q. And did that letter go out to  
4 all the practices in the networks that were  
5 affected?

6 A. I think it was more so the  
7 rheumatology.

8 Q. The rheumatology and others, or  
9 just rheumatology?

02:00 10 A. As far as I knew it was  
11 rheumatology. It could have been the others  
12 but I'm not certain.

13 Q. Did any practices call to follow  
14 up on that letter?

15 A. Yes.

16 Q. About how many?

17 A. I probably had about 10 that  
18 were confused. They didn't know what that  
19 meant. They thought that it -- they didn't  
02:00 20 understand the letter. They thought maybe  
21 wasn't one of our technicians coming out to  
22 remove the monitor so I would just explain to  
23 them just make sure that they show their ID  
24 before they would remove it or ask questions

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1 first.

2 Q. What was the distribution of the  
3 letter? About how many practices?

4 A. I don't know.

5 Q. It was in the hundreds, right?

6 A. Could have been. I don't have  
7 an exact number.

8 Q. Do you know how big the  
9 rheumatology network is?

02:01 10 A. I don't know how many.

11 Q. Was it to the full network?

12 A. Yes, but I don't know how many  
13 we have total.

14 Q. And there were about 10 calls to  
15 follow up on it?

16 A. That's how many came back to me.

17 Q. To you?

18 A. Yes, to my phone.

19 Q. Do the members of your team have  
02:01 20 a focus on any particular network or is it  
21 shared the same among everyone?

22 A. It's pretty much shared evenly.

23 Q. In the break room when you're  
24 watching or, excuse me, in your meeting room,

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1 is that where you said the content is up?

2 A. Uh-huh.

3 Q. In the meeting room when you're  
4 watching the primary care network do you see  
5 the types of segments that convey information  
6 to the patients?

7 A. Yes.

8 Q. Are some of them -- about how  
9 long is each segment?

02:02 10 A. Well, each -- each little  
11 picture that runs is about 15 seconds for the  
12 patient to read each article.

13 Q. And when you say picture that  
14 runs, there's kind of a background picture or  
15 -- for each segment that remains the same as  
16 the information is building until the next  
17 one kind of comes up?

18 A. Uh-huh.

19 Q. And you said that's about a  
02:03 20 couple minutes?

21 A. Well, I'm always thinking of the  
22 actual personal message they create because  
23 we have -- of our segments we have 18 that  
24 play every half hour, so 18 play within a

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1 half hour, then 36 within the hour messages  
2 so they're about 10 or 20 seconds, I guess,  
3 within the -- each content.

4 Q. Before the next background comes  
5 up and a new segment starts?

6 A. Uh-huh.

7 Q. And, in the course of one  
8 segment, would it be equivalent to about a  
9 half a page of text if you just read it all  
10 at once?

11 MR. BERNAY: Object to the form.  
12 You can answer.

13 A. I'd say yeah.

14 Q. But it doesn't all appear at  
15 once, it appears sort of a few words at a  
16 time over the course of the time that the  
17 segment runs?

18 A. Uh-huh. Yes.

19 Q. The message, when I've seen  
02:04 20 them, there have been some that encourage  
21 people to get early screenings for health  
22 conditions. Is that a type of segment that  
23 runs?

24 A. Yes.

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1           Q.       I've seen -- for instance, have  
2        you ever seen a spot with Danica Patrick in  
3        it to encourage people to get mammograms?

4           A.        I don't remember with her.

5           Q.        No?    Have you seen any other  
6        segments that encourage people to get  
7        mammograms?

8           A.        There's -- there's a message on  
9        the Women's Health Network.

02:05       10          Q.        What other types of preventive  
11        screenings messaging have you seen?

12          A.        Like for high blood pressure,  
13        get your blood pressure checked.  Prostate  
14        cancer, be sure to get that checked.  
15        Whatever -- I guess each month there's always  
16        awareness so they always kind of put those  
17        out there for each month.

18          Q.        Like a PSA?

19          A.        Uh-huh.  Yes.

02:05       20          Q.        And what are some other  
21        examples?  I think I've seen lung, something  
22        about lung awareness month or --

23          A.        Uh-huh.  Yes.

24          Q.        What's that?

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1                   A.        Just to -- well, smoke out, if  
2        you have -- the doctor's office will help you  
3        with it if you want to quit smoking. There's  
4        a little segment on that if the doctor's  
5        office will help, you know, if they offer  
6        that.

7                   Q.        So it doubles as kind of an ad  
8        for the doctor's office because patients can  
9        then get the service from the doctor's office  
02:06 10      if they request it?

11                  A.        Yes.

12                  MR. BERNAY: Object to the form.  
13      You answered.

14                  A.        And also if they -- if they  
15        don't agree with any of that we also have  
16        disclaimers we can put up also, so that's  
17        another option, if they don't agree with some  
18        of the content.

19                  Q.        What other sorts of PSAs are  
02:06 20      there?

21                  A.        I'm trying to think. There's --  
22        I haven't really looked at this month's.  
23        I've just been making the personal messages  
24        for them. I can't think of any off the top

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1 of my head. They were just in there  
2 yesterday, too, but I can't think of  
3 anything.

4 Q. Are there some related to  
5 aspirin?

6 A. Yeah. They do suggest, if it's  
7 okay with the doctor, if you get on a regimen  
8 of taking an aspirin but, again, if it's okay  
9 with your doctor.

02:07 10 Q. And you said they change each  
11 month. There are different awareness  
12 campaigns?

13 A. Yes.

14 Q. What types of awareness  
15 campaigns are included in the segments?

16 A. Just kind of depends on from  
17 month to month. Like for, well, March, what  
18 did I do for March? February was heart.  
19 There's like a cholesterol one.

02:08 20 Q. When you said a cholesterol one,  
21 what are you referring to?

22 A. Cholesterol awareness; get your  
23 numbers down for cholesterol, be sure to get  
24 them checked, watch what you eat. I forgot

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1 what I did for March but I try to update  
2 them, and then also when I talk to the person  
3 that we have in charge of updating their  
4 messages because I do try to get them to walk  
5 through and update them, too, because I can't  
6 do every office. I try to have them go to  
7 the website to look up each month to do their  
8 own awareness, but I know that we do have the  
9 content that automatically updates for  
02:08 themselves. They don't have to -- I let them  
10 know that we do have the content that will  
11 change each month anyway but they have just  
12 about unlimited messages that they can change  
13 themselves and offer them to go to the  
14 website that they can see each month that  
15 they can kind of look and get an idea what  
16 they want to change for the awareness. They  
17 can just follow that.

19 Q. And each month the PatientPoint  
02:09 20 content that's provided includes some sort of  
21 awareness campaign?

22 A. Usually.

23 Q. The ability of the practice to  
24 go in and create this custom messaging, is

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1 that an important feature to the customer?

2 A. Yes. It's a way to advertise  
3 without having to pay to advertise.

4 Something that they might want to promote  
5 themselves in their office.

6 Q. And is that customization  
7 feature something that you think would be a  
8 factor in a doctor's decision about whether  
9 to have a network or not in the waiting room?

02:09 10 A. I think so, if they were to  
11 purchase it. It's very expensive.

12 Q. Do you think that that ability  
13 to customize is something that a doctor would  
14 consider in choosing between two different  
15 networks?

16 A. I don't know. I don't know if  
17 that would or not.

18 Q. Have you ever had somebody say  
19 that it was important to them to have the  
02:10 20 customization?

21 A. No, but the way we've changed it  
22 now I don't know if they -- that's why I try  
23 to reach out to them. I don't know that they  
24 know all that they can do now since we've

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1 made such changes.

2 Q. Do you think, when the word gets  
3 out about the improvement in the customizable  
4 messaging, that it will help to reduce churn?

5 A. I think so. It's pretty user  
6 friendly.

7 Q. It's a competitive advantage?

8 A. I feel like it is.

9 Q. About how many calls do you get  
02:11 10 on with practices each day?

11 A. Between 20 and 30 calls.

12 Q. Is that every day?

13 A. No, sometimes less. I do a lot  
14 of e-mails, too.

15 Q. Okay. And is your entire job  
16 communicating with practices and sometime  
17 passing along that information internally?

18 A. Uh-huh. Yes.

19 Q. About how many practices do you  
02:11 20 think you communicate with in any form each  
21 week?

22 A. About a hundred, 120.

23 Q. And has that been the case since  
24 you started in 2010?

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1 A. Yes.

2 Q. So you talk to these practices a  
3 lot?

4 A. I do.

5 Q. Do you feel like you have a  
6 pretty good feel by now for what's important  
7 to them?

8 A. Yes.

9 Q. Is part of your job to find out  
02:12 10 from the practices what is important to them  
11 in making a decision about keeping  
12 PatientPoint's network in their waiting room?

13 A. Yes.

14 Q. Is part of that figuring out, if  
15 a practice wants to switch to a different  
16 network, the reason that the practice wants  
17 to switch?

18 A. Yes.

19 Q. Did you receive any training in  
02:12 20 how to do that?

21 A. Yes.

22 Q. What kind of training?

23 A. Well, they showed us all the  
24 benefits of what PatientPoint has to offer

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1 and then how to go about if someone did want  
2 to switch, is that what you mean, if someone  
3 wanted to -- somebody called up and wanted to  
4 change out PatientPoint to something else?

5 Is that what you meant?

6 Q. I think so. Can you describe it  
7 more?

8 A. If someone wanted to cancel with  
9 our service we would go ahead and ask why and  
02:13 10 we would ask who. Lot of times they don't  
11 tell us who so then we would just go on the  
12 pretense of just worrying about not so much  
13 who but why, and then from there find out  
14 what is it we're lacking and is there  
15 something we can do to keep them, what is it  
16 they're looking for.

17 Q. Reminds me a little bit of a gym  
18 membership that I had in Chicago and when I  
19 moved to Cincinnati I had to cancel it and I  
02:14 20 had to send a fax, then they call and say why  
21 do you want to cancel. It's an opportunity  
22 to keep the membership going if you can kind  
23 of respond to the problems that the  
24 customer's raising. Is that an accurate

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1 analogy?

2 A. Yeah, somewhat.

3 Q. So you said somewhat. What's  
4 different about it?

5 A. I was thinking of your gym. You  
6 can't take it with you, can you? Need a  
7 helicopter. Yes, we wanted to try to cover  
8 all bases to try to find out what we can do  
9 to keep them. If we really can't save them,  
02:14 10 if there's nothing more that we can do, what  
11 we try to do is find out what it is that they  
12 want to change and if it's something -- if  
13 they would just tell us what it is that  
14 they're looking for. Lot of times they don't  
15 open up and tell us, they just say they want  
16 to try something different. We don't know  
17 what that different is if they don't tell us,  
18 so most of the time we end up losing them.

19 Q. About how often after a practice  
02:15 20 says it wants to switch are you able to keep  
21 the system in the waiting room?

22 A. We give them -- they have to  
23 give us a 30 day notice, and that's usually  
24 pretty much on the money. I mean, 30 days is

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1     -- we have it out 28 to 30 days. No longer  
2     than that.

3                   Q.     A technician out there to switch  
4     them?

5                   A.     To take out a monitor.

6                   Q.     I guess my question was about  
7     how often after somebody -- how often after  
8     somebody says they want to switch do you  
9     convince them, after all, to stay?

02:16    10                   A.     Do I win?

11                   Q.     How often do you win?

12                   A.     Say 10 people call, maybe two I  
13     might win out. Eight I lose.

14                   Q.     And has that been pretty steady  
15     since 2010 or has it gone up and down?

16                   A.     It was -- it's kind of died  
17     down --

18                   Q.     Which part?

19                   A.     -- but it was very steady in  
02:16    20     2010.

21                   Q.     Which part of it was steady, the  
22     request to switch, the wins, or both?

23                   A.     The wins. The losers were in  
24     the beginning. It's gotten a little bit

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1 better now. It's kind of tapered off now.

2 The requests have tapered off a little bit.

3 Q. So setting aside how many calls  
4 you're getting to switch has the percentage  
5 that you've been able to win after they've  
6 said they wanted to switch changed over time  
7 or --

8 A. No.

9 Q. -- has it gone up and down?

02:17 10 A. It's gone up and down. It's  
11 still kind of iffy. One out of 10.

12 Q. Would be the lowest that it's  
13 been?

14 A. (Nodding affirmatively.)

15 Q. And then in a really great month  
16 about how many out of 10 would you be able to  
17 retain after they've said we're going to  
18 switch?

19 A. Two.

02:17 20 MR. BERNAY: Tom, to clarify for  
21 the record, are your questions geared to all  
22 practices or just those switching to  
23 ContextMedia?

24 MR. HANKINSON: Is that an

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1 objection?

2 MR. BERNAY: I'm just trying to  
3 clarify for the record.

4 MR. HANKINSON: I mean, my  
5 questions are what they are. I don't  
6 remember what the phrasing of each one was.

7 MR. BERNAY: That's fine.

8 That's fine.

9 Q. Do you find it easier or harder  
02:18 10 to win back somebody who wants to switch  
11 based on whether the switch is going to  
12 television or to any one of the competitors  
13 that you mentioned versus the others, or is  
14 it always roughly the same one or two out of  
15 10 you're able to win back?

16 MR. BERNAY: Object to the form.  
17 You can answer.

18 A. It's about the same.

19 Q. Is that 30 day time period in  
02:19 20 the enrollment forms intended to give you a  
21 chance to do what you do and win back the  
22 practices?

23 A. It is, but it's also time enough  
24 to get a technician out there also for them

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1 to schedule because we're kind of -- kind of  
2 busy to where it is kind of hard to get  
3 somebody to get out there between having the  
4 technicians installing. It's a little --  
5 scheduling is tight, so between installing  
6 and moving they kind of have to stagger it.

7 Q. At any point while you've been  
8 employed by PatientPoint has there been a 60  
9 day period instead of a 30 day period?

02:20 10 A. There used to be and then they  
11 did change that to a 30 day.

12 Q. Have you ever -- are you aware  
13 of any time in which PatientPoint or Healthy  
14 Advice have sued a doctor's office?

15 A. I don't recall.

16 Q. If a doctor's office takes down  
17 the Healthy Advice or PatientPoint hardware,  
18 itself, what happens?

19 02:21 A. If they're going to send it back  
20 to us or if they're going to keep it?

21 Q. In either case what happens?  
22 Let's take it first if they're going to send  
23 it back to you.

24 A. We usually try to find out,

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1       well, find out, of course, why, because we  
2       lost a signal, we're trying to find out. If  
3       they are sending it back to us, how they're  
4       going to send it back. We try to get a  
5       technician out there actually to pick it up  
6       if we can so it's not -- lot of times it's  
7       not packaged correctly and by the time it  
8       comes back it is broken, we're unable to use  
9       it again, but the main thing is to get one of  
02:21 10      our technicians out there to package it up.

11      That's the --

12           Q.      The equipment, if it's not  
13       broken, get reused?

14           A.      Yes.

15           Q.      And about how often are you able  
16       to reuse the equipment that comes back?

17           A.      If we have a -- if it's shipped  
18       back correctly by one of our techs we usually  
19       -- most of the time, hundred percent, as far  
02:22 20       as I know, because I don't ever get to see  
21       that end of it.

22           Q.      And then you asked me to clarify  
23       if I was asking about instances where the  
24       practice wants to keep the hardware. What

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1 happens in that kind of circumstance?

2 A. Depends if it's a 19 inch we  
3 don't usually require that one back because  
4 we don't use those anymore, but if it's one  
5 we still use we, again, still try to get that  
6 back.

7 Q. Is the monitor the most  
8 important part?

9 A. There's something called a CPU.  
02:22 10 We do usually have to get that back.

11 Q. Usually or all the time?

12 A. If it's one that hasn't, what do  
13 I want to say, expired. It's one we don't  
14 use anymore then just depends on if we still  
15 use it or not.

16 Q. How do you know which CPUs are  
17 being used still and which are not?

18 A. There's someone upstairs named  
19 Vida, she takes care of all that but she's  
02:23 20 given us a list to tell us what we still use  
21 and what we don't.

22 Q. Vida?

23 A. Vida.

24 Q. V?

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1 A. V-I-D-A.

2 Q. Do you remember her last name?

3 A. I don't remember names, no.

4 Q. And Vida retains a list of what  
5 equipment is being reused and what equipment  
6 is no longer, I guess, serviceable?

7 A. Right.

8 Q. And does that list change over  
9 time?

02:23 10 A. It hasn't in a long time. It's  
11 pretty much the same.

12 Q. And do you have an understanding  
13 of what equipment, what CPUs are still  
14 serviceable and which are not?

15 A. Just from that list she's given  
16 us. We have it in our computer what they  
17 have and what we have.

18 Q. So you have the list?

19 A. Uh-huh.

02:24 20 Q. It's distributed from Vida to  
21 the members of your team?

22 A. Uh-huh. Yes.

23 Q. So when a practice calls and  
24 says I want to switch, I've taken down your

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1 system already, you can ask them what type of  
2 CPU it is?

3 A. We'll know.

4 Q. You'll know from your notes?

5 A. We'll know from the computer  
6 screen at their office.

7 Q. And if it's not one that's on  
8 the list to be reused what happens to the  
9 CPU?

02:24 10 A. Make sure it's okay, I'll talk  
11 to our manager and find out if we're going to  
12 have somebody go out to get that.

13 Q. So sometimes you go and get it  
14 and sometimes you decide not to?

15 A. We'll ask -- yes, we'll -- if  
16 we're going to be able to still use it. If  
17 they've already taken it down we'll ask for  
18 them, if they're okay with it, to dispose of  
19 it or use it however they would like.

02:25 20 Q. I didn't quite understand that.  
21 It sounded like you said if we can still use  
22 it we'll ask them to dispose of it.

23 A. If it's one that we can use now,  
24 if it's something that hasn't been considered

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1       old and non-usable, we'll ask for them, if  
2       they want to, do whatever they would like  
3       with it, or if it's something that we are  
4       still using and could send a technician out  
5       to go get, if it's one that's on that list of  
6       not able to use again then we'll ask the  
7       office if they're okay with doing whatever  
8       they want with it, which is probably not  
9       going to be putting it back up to use again  
02:26 10      since they've already taken it down.

11           Q.       I see. I was a little confused.  
12          You're asking the office if it's okay with  
13          them to do whatever they want with it.  
14          You're concerned that leaving it there would  
15          annoy them?

16           A.       Yes. If they don't want --  
17                    MR. BERNAY: Objection. You can  
18          answer. You can answer.

19           A.       Okay. If they don't want it  
02:26 20          there we'll send a technician out to go get  
21          it from them.

22           Q.       But if they're okay with it  
23          being there and it's on the old list where  
24          they're not reusing it anymore then they'll

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1 just keep it?

2 A. Yes.

3 Q. And has that happened multiple  
4 times since 2010?

5 A. Not usually. They usually --  
6 most of the time they usually have an up to  
7 date -- it's a 32 inch monitor, usually has  
8 an up to date CPU.

9 Q. So it only happens some of the  
02:26 10 time?

11 A. Rarely, but yes.

12 Q. About how many times a year?

13 A. Just a ballpark figure, maybe  
14 two or three times. They might have a 19  
15 inch monitor with an old CPU.

16 Q. Usually if it's a 19 inch  
17 monitor it also has the old CPU?

18 A. Yes.

19 Q. In every case?

02:27 20 A. Most of the time.

21 Q. And about two or three times a  
22 year you've encountered this where the old  
23 PCU and the monitor are left at the practice  
24 after the practice cancels?

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1 A. Yes.

2 Q. And that's just speaking for  
3 yourself, personally, not your whole team,  
4 correct?

5 A. Correct.

6 Q. Are you aware of this happening  
7 with other members of your team?

8 A. No, I've not heard; we've not  
9 talked.

02:27 10 Q. But everybody gets the list from  
11 Vida that says what CPUs are still  
12 serviceable and which you don't use anymore,  
13 correct?

14 A. It was sent to all of us.

15 Q. Have you ever been instructed to  
16 do this differently?

17 A. No.

18 Q. Is it your understanding that  
19 everybody on your team has the same  
02:28 20 instructions about what to do in these  
21 circumstances?

22 A. Yes.

23 Q. The same network programming  
24 runs on all the CPUs on the system, correct?

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1 MR. BERNAY: Object to the form.

2 You can answer.

3 A. Yes.

4 Q. Do the old CPUs and the new CPUs  
5 offer the same features to the practices?

6 A. As far as I know.

7 Q. You've never been told that  
8 there's any difference between the features  
9 that are available if a practice has the old  
02:29 10 CPU versus the features that are available if  
11 the practice has the new CPU?

12 A. I don't know the difference in  
13 the technical part.

14 Q. No one's ever told you that  
15 there's a difference in the product offering  
16 between the two, have they?

17 A. No, we've never talked about --  
18 I don't know the ins and outs of what they  
19 do.

02:29 20 Q. Your job, though, is to, in  
21 part, at least, to explain the features that  
22 are available to the practices so that they  
23 feel engaged with the system and want to  
24 retain it, right?

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1 A. Yes.

2 Q. So if there was a certain list  
3 of features that were only available to part  
4 of the network you would expect to know that,  
5 right?

6 A. Yes.

7 Q. So I think you can understand  
8 what I'm trying to ask, and I'm sorry if I'm  
9 not being clear, the same features are  
02:30 10 offered to all the practices in the network?

11 A. Yes, so one CPU couldn't do  
12 another, yes. I'm sure they both work  
13 equally as opposed to old or new. Just that  
14 particular piece of equipment is something we  
15 don't use anymore as opposed to the another  
16 one we do use.

17 Q. The software is the same, it's  
18 the hardware that's different?

19 A. Correct.

02:30 20 Q. And Vida, how often does she put  
21 out this list?

22 A. It's only -- as far as I know  
23 it's only been put out one time.

24 Q. About when was that?

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1 A. About a year ago.

2 Q. 2013, sometime in early spring  
3 or late winter?

4 A. Yes. It may have been available  
5 out there before, just that's when I -- I've  
6 always e-mailed her and said can we use this  
7 one, you know, is this old or new.

8 Q. So before the list came out you  
9 would get in touch with Vida to find out if  
02:31 10 the practice needed to send back the CPU or  
11 not?

12 A. Right. I would just ask her.

13 Q. Sometimes she would say yes, we  
14 want that one back; sometimes she would say  
15 no, they can keep it if they want?

16 A. Correct.

17 Q. Then you would convey that to  
18 the practice?

19 A. Yes.

02:31 20 Q. And at least two or three times  
21 a year the practice would keep it?

22 A. Yes.

23 Q. Did any practice ever tell you  
24 what they intend to do with it?

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1                   A.        Most of them said okay, they're  
2        fine with it. If they didn't, I would send a  
3        tech out to pick it up.

4                   Q.        But it's really at the whim of  
5        the practice, it's whatever they want to do,  
6        customer service mentality, let the practice  
7        do what it wants?

8                   MR. BERNAY: Object to form.

9        You can answer.

02:31    10                   A.        Yes.

11                   MR. BERNAY: After that long  
12        pause why don't we take a break?

13                   MR. HANKINSON: Was that a long  
14        pause? Thank you. A break sounds good.

15                   MR. BERNAY: Relative.

16        (Break taken.)

17                   Q.        You mentioned earlier, you said  
18        something like people say Power Point. What  
19        did you mean by that?

02:43    20                   A.        Said sometimes the actual  
21        showing reminds them of Power Point.

22                   Q.        How often have you heard that?

23                   A.        Just a few times.

24                   Q.        From whom?

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1                   A.        Actually from my teammates  
2        saying they've heard it before.

3                   Q.        So a few times a member of your  
4        team has indicated that a person from a  
5        practice has said that it reminds them of  
6        Power Point?

7                   A.        Yes.

8                   Q.        And "it" is the healthy advice  
9        network system?

02:43           A.        Yes.

11                  Q.        And you said that you disagree  
12      with that?

13                  A.        Yes.

14                  Q.        Give me the reasons that you  
15      disagree with that, if you would be kind  
16      enough.

17                  A.        Because some of the -- well,  
18      when you look at the programming on Power  
19      Point, there's so much you cannot do on that  
20      monitor; when you look at it and see all the  
21      different things that it can do there's no  
22      way you can do that on a Power Point  
23      presentation.

24                  Q.        So what kind of things?

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1                   A.        Just -- some of the programming  
2        on it is almost interactive, the way it  
3        moves, and Power Point is pretty still so  
4        it's -- they're just completely opposite.

5                   Q.        So it's the movement of items on  
6        the Healthy Advice screen that's the main  
7        difference that you would note between that  
8        and Power Point; is that fair?

9                   A.        Yes.

02:44 10                   Q.        What other differences do you  
11        notice that would cause you to say they're  
12        different?

13                   A.        That and the color saturation.

14                   Q.        What is color saturation?

15                   A.        How much there is of -- the  
16        different screens, I mean, there's just not  
17        one specific color. There's just a lot in  
18        each picture.

02:45 19                   Q.        So the Power Point presentations  
20        that you're familiar with have a standard  
21        background that is the same throughout the  
22        whole presentation?

23                   A.        What I've seen a long time ago.

24                   Q.        Sure. And is that what you're

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1 contrasting to the color saturation of the  
2 Healthy Advice Networks programming?

3 A. Yes.

4 Q. Are there any other differences  
5 that are causing you to say that they are  
6 different?

7 A. No. Just those.

8 Q. Okay. If Power Point came out  
9 with a new program, like a -- Power Point  
02:45 10 3.0, whatever they're up to, and there is the  
11 capability to make the background of the  
12 slide any color, different per slide, and  
13 could be many colors, you could put a photo  
14 in the background, you know what I mean?

15 A. Uh-huh.

16 Q. Would that be the kind of color  
17 saturation that you're talking about?

18 MR. BERNAY: Object to the form  
19 but you can answer.

02:46 20 A. Maybe. I'd have to see it to be  
21 able to say that but I would just have to  
22 compare the two.

23 Q. It's the kind of thing that  
24 would be similar, maybe Healthy Advice would

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1      be slightly more or better, but it's the kind  
2      of color saturation that you're talking  
3      about?

4                A.      Yes.    Just some of the pictures  
5      I've seen the other day, I just can't compare  
6      the two.

7                Q.      But if you could put a photo,  
8      any photo you want, on a Power Point slide in  
9      this new Power Point, then it would be the  
10     same?

11              A.      No.

12              Q.      So what would the difference be?

13              A.      They're just -- some of it's  
14      interactive and, I don't know, I'd have to --  
15      I haven't seen Power Point recently where  
16      it's interactive.

17              Q.      So that refers to the  
18      interactivity, which you mentioned two  
19      things.    One is the interactivity and one is  
20      the color saturation, and those are the two  
21      differences that you told me about.   So  
22      setting aside the interactivity and just  
23      talking about color saturation, if you could  
24      put any photo you want, any color combination

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1 of colors on a Power Point slide, if you  
2 could have every slide be different in that  
3 regard, or five slides with the same sort of  
4 very vivid, you know, high definition photo  
5 and then five with a -- like a cartoon figure  
6 in the background and, you know, anything  
7 that you wanted, then it would be similar?

8 MR. BERNAY: Object to the form.  
9 You can answer.

02:47 10 Q. Is that correct?  
11 A. I guess so.  
12 Q. On the color saturation side?  
13 A. Yes.  
14 Q. And then on interactivity, kind  
15 of the same issue. If we came out with a new  
16 form of Power Point that would like, for  
17 instance, you could have one word on and then  
18 a different word would kind of seem like it  
19 was coming from the side and it would knock  
02:48 20 into the first word and maybe that would  
21 bounce a little bit then they would settle  
22 down, and then like a figure of a guy with an  
23 idea light bulb over his head would come in  
24 from the side, then the light bulb would

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1 light up, if you could do that would that be  
2 interactivity, in your mind?

3 MR. BERNAY: Objection. You can  
4 answer.

5 A. I guess, yes.

6 Q. And that's the type of  
7 interactivity that you're saying sets Healthy  
8 Advice Networks's systems apart from Power  
9 Point's capabilities?

02:48 10 A. Yes.

11 Q. Have you ever encountered  
12 practices who say that they received money  
13 from a network provider, a competitor of  
14 PatientPoint?

15 A. Gift cards; I've heard them get  
16 gift cards.

17 Q. What competitors have offered  
18 gift cards?

19 A. RHN, ContextMedia.

02:49 20 Q. RHN, being a network that  
21 ContextMedia puts out, or two different  
22 things?

23 A. I believe one in the same.

24 Q. You believe they're the same?

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1 A. One in the same, yes.

2 Q. So are you aware of any other  
3 competitors that have offered gift cards?

4 A. No.

5 Q. What about money for, like,  
6 reimbursement for internet monthly fees?  
7 Have you heard of a competitor offering that  
8 to a practice?

9 A. I did hear one of my other  
02:50 10 teammates mention three months free of  
11 internet.

12 Q. Just once?

13 A. Uh-huh.

14 Q. Do you know what competitor that  
15 referred to?

16 A. It was ContextMedia.

17 Q. Have you ever heard of Accent  
18 Health offering any money or internet  
19 reimbursement?

02:50 20 A. I haven't, no.

21 Q. Do you think it's an important  
22 factor to the practice decisionmaker if  
23 they're being offered a gift card or a  
24 reimbursement for some sort of expense that

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1 they have in deciding between two competing  
2 systems?

3 MR. BERNAY: Object to the form.

4 You can answer.

5 A. Do I think it's important?

6 Q. Yes.

7                   A.        Yes; yes and no. I mean, it's a  
8 nice incentive but I don't think they should  
9 make it their only incentive. It shouldn't  
0 make up their minds.

11 Q. It shouldn't?

12                   A.        I don't think it should make up  
13    their minds, but that's just my thinking.

14 Q. But sometimes it does?

15 A. It does.

16 Q. You encountered that where,  
17 because of that gift card being offered,  
18 that's it, that's the -- that's why the  
19 practice is going to switch and there's  
20 changing their minds?

21 A. True, yes.

22 Q. Would you agree, though, that  
23 the number one reason that practices switch  
24 from one network to the other is the content

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1 on the screens?

2 A. I don't know because I have  
3 never seen ContextMedia's content so I can't  
4 tell you. They've never told me. A lot of  
5 times -- well, I don't know. They did say  
6 they wanted a change.

7 Q. They, meaning the practice?

8 A. The practice said they wanted a  
9 change.

02:52 10 Q. And are you referring to a  
11 specific conversation?

12 A. Well, when they've called me and  
13 want to cancel I ask them why, they say well,  
14 we wanted something new and need a change.  
15 Sometimes they'll say we might call back and  
16 switch but they want to try something new.

17 Q. New in terms of the content that  
18 plays?

19 A. Maybe just the new -- they may  
02:53 20 be referring to that or just a new provider.

21 Q. So there's a certain amount of  
22 churn that's just generated by people wanting  
23 to try new things, see if there's something  
24 better, if the grass is greener; is that what

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1 you're saying?

2 A. Yes.

3 Q. And a certain part of the  
4 practices that switch from PatientPoint or  
5 Healthy Advice to ContextMedia or Accent  
6 Health would be due to circumstances beyond  
7 anybody's control where they've had one  
8 system for a while and they want to try one  
9 that's new?

02:53 10 MR. BERNAY: Object to the form.

11 You can answer.

12 Q. Would you agree with that?

13 A. I guess.

14 Q. So yes?

15 A. Yes.

16 Q. I guessed that you would based  
17 on what you said.

18 A. Yes.

19 Q. Have you encountered practices  
02:54 20 who wanted a news ticker?

21 A. Yes.

22 Q. Have you encountered practices  
23 who switched to ContextMedia because they  
24 wanted a news ticker?

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1 A. No.

2 Q. To a different competitor?

3 A. I don't think they've said that  
4 that was the only reason but -- I can't  
5 recall if that was the only reason but I have  
6 -- I have heard people mention that they do  
7 like that news ticker, or the doctor likes  
8 that.

9 Q. The news ticker on

02:55 10 ContextMedia's network?

11 A. Uh-huh. Yes.

12 Q. So you can't remember if that  
13 was the sole reason they switched or if that  
14 was one factor among a couple of factors, or  
15 a few, for the switch?

16 A. Yes, correct.

17 Q. If you -- you have a database  
18 called a CMS?

19 A. Yes.

02:55 20 Q. That's where you input  
21 information that you get from your calls and  
22 e-mails with practices?

23 A. Correct.

24 Q. If you're aware of a reason for

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1 a practice switching is it a policy or a  
2 procedure that's part of your job for you to  
3 put that reason into the CMS system?

4 A. Correct. Yes.

5 Q. Have you been instructed to do  
6 that?

7 A. Yes. Notate each account.

02:56 8 Q. Have you been instructed to  
9 notate each account with every reason that  
10 the practice gives you for a switch?

11 A. Yes.

12 Q. You're not supposed to leave any  
13 out?

14 A. Try not to. Try to put  
15 everything in there.

16 Q. What did you call, notate -- I  
17 know I repeated it but now I forget -- notate  
18 the account?

19 A. Right. Yes.

02:56 20 Q. Is that what you -- is that the  
21 term for entering information into the CMS  
22 database with respect to a particular  
23 practice?

24 A. Yes.

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1 Q. So the account is the practice?

2 A. Correct. Yes.

3 Q. And the notate is kind of  
4 entering text into a computer?

5 A. Yes.

6 Q. Do you notate the account at the  
7 time of the call or shortly after it?

8 A. At the time of the call.

9 Q. Right at the time of the call?

02:57 10 A. Yes. Yes.

11 Q. Within seconds, within minutes?

12 A. Within minutes of the call.

13 Q. When you still remember and it's  
14 fresh in your mind?

15 A. Yes.

16 Q. And is the policy and procedure  
17 in your -- of your team to do that?

02:57 18 A. Yes. Usually while we're

19 scheduling; if we're scheduling the removal  
20 or while we're talking to them.

21 Q. Did you say while or why?

22 A. While, while we're talking to  
23 them.

24 Q. It's the policy or the

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1 procedure -- is it a policy or a procedure?

2 A. It's a procedure.

3 Q. It's a procedure?

4 A. Yeah.

5 Q. You've been instructed by your  
6 supervisors to do it?

7 A. Right. Yeah. Correct.

8 Q. And is there training about how  
9 to do it?

02:57 10 A. Yes.

11 Q. This is the information you  
12 should ask for, this is how we want it  
13 entered into CMS?

14 A. Yes.

15 Q. So those are the types of things  
16 that your supervisors have instructed you  
17 about?

18 A. Correct.

19 Q. About how often do they instruct  
02:58 20 you about that?

21 A. We have a -- well, once a year  
22 we get a training.

23 Q. Has it been pretty much the same  
24 training on the CMS account notations since

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1 you started in 2010 or does it change?

2 A. It's about -- well, every day we  
3 know we have to notate the account. It's  
4 just the only way you're going to know  
5 something. I'd say every six months we're  
6 reminded don't forget to notate the account.

7 Q. During your call or within  
8 seconds after?

9 A. Correct, yes.

02:58 10 Q. Is it against the rules to put  
11 things in CMS that are false?

12 A. Yes.

13 Q. Is it against the rules to leave  
14 things out of CMS when the practice is  
15 telling you that that's the reason that they  
16 switched to a competitor?

17 MR. BERNAY: Object to the form.

18 You can answer.

19 A. Yes.

02:59 20 Q. And is it a rule that you're  
21 supposed to inquire in every case where a  
22 practice wants to switch to a competitor who  
23 the competitor is and why the practice is  
24 switching?

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1                   A.        Yes, we do want to put that in  
2 there.  We do ask.  If they don't tell us  
3 then we just put whatever, whatever they tell  
4 us, put whatever we -- whatever they tell us  
5 to the best of our knowledge to what they're  
6 telling us, we try to put as much in as  
7 they're telling us.  If we don't have all the  
8 information then that's what we -- we have to  
9 put a work order request in to cancel then we  
02:59 10 send that to Amy.  Sometimes she doesn't --  
11 she's not happy if we don't know who the  
12 competitor is but that's what we have to send  
13 her.

14                   Q.        Amy Finley?

15                   A.        Amy Finley.

16                   Q.        Is there any written document  
17 for the training or the instructions about  
18 entering or notating accounts?

19                   A.        Yes.

03:00 20                   Q.        What form is that?

21                   A.        We have a book that -- it's a  
22 manual that we go by.

23                   Q.        And how often is that manual put  
24 out?

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1           A.     It's -- well, it's our manual  
2     that we get as we start from day one and  
3     periodically it's updated.  Don't know  
4     exactly how often but there's always updates  
5     when anything new is changed.

6           Q.     Is it separate from the HR type  
7     employment manual, it's something specific  
8     for your team?

9           A.     It's -- well, when a new person  
03:00 10    starts you get a book that has your -- your  
11    criteria that you start with and then that  
12    book you keep at your desk and you refer back  
13    to as you're putting in orders or creating  
14    something.

15          Q.     Do you know what I mean by like  
16    an employee manual?

17          A.     Yes, and that's separate from --

18          Q.     Okay.  This is more of a  
19    training or an instructions manual?

03:01 20          A.     Uh-huh.  Yes.

21          Q.     And is it specific to customer  
22    relationship management?

23          A.     Yes.

24          Q.     Just your team?

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1 A. Yes.

2 Q. How big is it? How many pages?

3 A. I'd say it's about 50 to 75  
4 pages.

5 Q. Do you get it in printout or do  
6 they e-mail it to you?

7 A. It's printed.

8 Q. Is it like a binder?

9 A. Yes.

03:01 10 Q. I like binders. Is it in color?

11 A. Each -- we have three binders  
12 and they're different colors.

13 Q. Okay. What are the three  
14 binders?

15 A. One is for exam room program,  
16 one is the monitor program and then the other  
17 one is just your -- the company, all about  
18 the company program.

19 Q. All about PatientPoint?

03:02 20 A. PatientPoint, yes.

21 Q. And the monitor program you're  
22 talking about, the PCN, ACN, the care  
23 networks where the content is put into the  
24 waiting rooms of practices?

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1 A. Yes.

2 Q. So what color is that binder?

3 A. Orange.

4 Q. Do you call it the orange  
5 binder?

6 A. No, I call it the WRN binder.

7 Q. The WRN binder?

8 A. Waiting Room Network.

9 Q. Waiting Room Network. Very  
03:02 10 good.

11 A. It encompasses all of it.

12 Q. Are there sample scripts in  
13 there for phone calls?

14 A. Yeah, yes.

15 Q. And are some of those sample  
16 scripts related to calls where a practice  
17 says they want to terminate?

18 A. More so if they want the service  
19 and we can't fulfill it. Sometimes we aren't  
03:02 20 in every area to expand or we're overexpanded  
21 and we don't have enough monitors. There's a  
22 little script in there to let them know we'll  
23 put them on a waiting list.

24 Q. So there's --

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1                   A.        There's a script for that.

2                   Q.        There's more demand for

3   PatientPoint's network services than

4   PatientPoint is able to meet?

5                   A.        Correct.

6                   Q.        And is that across all networks

7   or particular to one or two networks?

8                   A.        There might be one or two  
9   networks we can't expand in.

03:03           10                   Q.        Which ones?

11                   A.        They change from time to time.

12                   Q.        How do you find out when any  
13   particular network is too full?

14                   A.        We're updated from month to  
15   month or maybe every three months it might  
16   change. They just kind of send a list out.

17                   Q.        And is that countrywide or are  
18   there regions where you're not going to  
19   expand?

03:03           20                   A.        Countrywide.

21                   Q.        So each month there's a list no  
22   more PCN but we can still add screens to the  
23   other four, then the next month it might be  
24   we're full of ACN but we can still add

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1 screens to the other ones?

2 A. It changes about every three  
3 months.

4 Q. Every three months. Have there  
5 been times since 2010 when you started that  
6 PCN was oversubscribed?

7 A. Yes.

8 Q. Have there been times since you  
9 started in 2010 when ACN was oversubscribed?

03:04 10 A. No.

11 Q. ACN, is that Arthritis Care  
12 Network?

13 A. Yes.

14 Q. Have there been times since 2010  
15 when CCN has been oversubscribed?

16 A. Yes.

17 Q. Do you have any sense for how  
18 often PCN or CCN have been oversubscribed or  
19 full?

03:04 20 A. No, I don't know how long or how  
21 often.

22 Q. Do you have any sense for the  
23 numbers of practices that have had to be put  
24 on a wait list or turned away?

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1                   A.        No, because we don't see that  
2 end of it.

3                   Q.        It would be in CMS if a practice  
4 was turned away?

5                   A.        I don't get to see that if it  
6 is. I don't see the numbers or anything.

7                   Q.        But you input it into CMS?

8                   A.        Yes.

9                   Q.        And there's a script for how to  
03:05 10 deal with that situation in the WRN binder?

11                  A.        Yes, and after a while we just  
12 kind of let them know, we send the  
13 information out there and that they're  
14 interested in the service, just kind of --  
15 and when someone does -- someone new does  
16 call in we do -- we have a gentleman that we  
17 send that new information to and he kind of  
18 will kind of put it in there and he might  
19 know a little bit better than we do if  
03:05 20 something more is available. If there is a  
21 new practice that we are expanding in we send  
22 it to this gentleman and he'll kind of let  
23 them know if there's something available,  
24 he'll send it to the sales rep and get things

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1 going.

2 Q. Do you know what the limiting  
3 factor is? Like you just run out of  
4 monitors?

5 A. Well, just depends on, I  
6 guess -- it depends on, I guess, the area,  
7 the sales team, the sales reps in that area.

8 Q. Geographically?

9 A. Uh-huh.

03:06 10 Q. I don't get it. I'm sorry. The  
11 sales reps have, like, quotas that they're  
12 not allowed to go beyond?

13 A. Because I deal with Colorado  
14 sometimes there's not reps in that area in  
15 some of the districts, some of the outlying  
16 areas, and sometimes they don't have somebody  
17 to go in that area to even offer that  
18 information, offer the program to them so  
19 they don't have anybody to even report to  
03:06 20 them to say, hey, I can show you the program  
21 and this is what we have, so they don't have  
22 anybody to even sell it to them.

23 Q. So a lack of an available sales  
24 rep would be a total bar to putting a network

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1 into a new waiting room?

2 A. Right.

3 Q. Do sales reps act on behalf of  
4 all the networks or only particular networks?

5 A. They work on all the networks.

6 Q. Within a particular geographical  
7 region?

8 A. Uh-huh. Yes.

9 Q. So even though ACN, to your  
03:07 10 memory, hasn't appeared on the list of  
11 oversubscribed networks there are certain  
12 areas where sales reps may not be available  
13 to put in new systems?

14 A. Correct.

15 Q. And that would be an independent  
16 reason that, even though somebody wants a  
17 screen up, PatientPoint would just not be  
18 able to provide the screen?

19 A. If they weren't in that  
03:08 20 geographical area there's not somebody to  
21 offer it.

22 Q. Then the answer to my question  
23 would be yes?

24 A. Yes.

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1                   Q.        So when I asked whether, in the  
2       WRN binder, there was a script about how to  
3       deal with somebody who called to terminate,  
4       you said more so turning people away, but are  
5       there scripts that deal with termination  
6       calls?

03:09           A.        I would -- well, I'm trying to  
10      think if I even -- yes, because we do -- I  
11      would say yes. I just have it in my mind to  
12      always ask the main things as why, what can  
13      we do to show you the value of our product  
14      and what can we do to keep you.

15                   Q.        Those are the main questions to  
16      ask?

17                   A.        Uh-huh.

18                   Q.        You're having trouble  
19      remembering if that's in the book, in  
20      particular?

03:09           A.        Yeah, because I don't flip it  
21      over to even look. We do, yes, I mean, there  
22      is a little tab I have that says save but I  
23      just know those are the questions that I have  
24      that I actually have a little thing on my --  
          my wall that I stuck up there to say these

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1 are my questions I like to ask, but I  
2 actually don't flip open my book to look for  
3 that but, yes, there is an article in there.

4 Q. Did you say an article?

5 A. There is a script.

6 Q. Are there other instructions  
7 about that situation aside from a sample  
8 script?

9 A. Yes.

03:09 10 Q. What kind of other instructions?

11 A. If we're not able to save them,  
12 the next step is what to do, how to go about  
13 scheduling removal and how to get the  
14 equipment back, how many days to schedule it  
15 out.

16 Q. And does it say to always  
17 schedule it close to the end of the 30 days?

18 A. Twenty-eight to 30; no longer  
19 than 30 days.

03:10 20 Q. But no sooner than 28 days?

21 A. Whatever is going to work for  
22 the site, make sure it's -- but it is in the  
23 agreement to have it out within 30 days.

24 Q. So if PatientPoint did not

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1 de-install a system within 30 days after  
2 being notified to do so it would not be  
3 complying with what it tells the practices it  
4 will do?

5 A. True. Yes.

6 Q. And is there an instruction that  
7 if the practice is okay with it to make the  
8 installation 28 to 30 days out specifically?

9 A. I don't believe it states  
03:11 10 exactly like that.

11 Q. Well, you said 28 to 30 days.  
12 I'm just wondering where that came from.

13 A. I like to try to make sure in  
14 case the technician is late or something or  
15 misses the call, if we shoot for 28 it gives  
16 a day. If he misses that 28th day and he  
17 says I'm stuck in traffic, not going to make  
18 it, something terrible happens, he can make  
19 it the next day, at least we're still going  
03:11 20 to be out within that 30 days.

21 Q. But why not next week?

22 A. Well, again, we like to shoot  
23 for -- well, we have to do our 30 day  
24 agreement because that's what's in the

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1 enrollment agreement and we like to be able  
2 to make sure we have a technician going to be  
3 in that area and we have other technicians  
4 that are installing and we just want to be  
5 able to make sure that they have a technician  
6 that's going to be able to do that.

7 Q. Have you dealt with practices  
8 who have connectivity issues with a network?

9 A. We have had.

03:12 10 Q. Meaning that their screens go  
11 blank periodically and they're annoyed with  
12 it?

13 A. We have had that. It used to be  
14 more prevalent when I first started.

15 Q. About when?

16 A. In 2010 when we were hooked up  
17 to the fax line, but now it's not so much an  
18 issue.

19 Q. And when did that change?

03:12 20 A. We connect with the internet.

21 Q. And when was that change made?

22 A. It was a progression since 2010  
23 'til now.

24 Q. More and more people or, excuse

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1 me, new installations were made internet  
2 connective sometime after 2010?

3 A. And we actually went out and  
4 upgraded a lot of offices to internet  
5 connection.

6 Q. When did that process start?

7 A. About 2011 and on, 2012.

8 Q. So before -- wait, 2011 and on?

9 A. Uh-huh.

03:13 10 Q. You said 2012. Did you just  
11 mean including 2012?

12 A. Well, right, 2011 and on up.

13 Q. Beginning of 2011?

14 A. Somewhere in the middle.

15 Q. Somewhere in the middle of 2011  
16 new initiative started -- let me start over.  
17 Somewhere around the middle of 2011 a new  
18 initiative started to make new installations  
19 connect via the internet instead of fax and  
20 also replace some of the existing practices,  
21 fax connections with new internet  
22 connections?

23 A. Correct.

24 Q. Before the middle of 2011 it was

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1 all fax connective?

2 A. Yes.

3 Q. And that was the period during  
4 which there were more reported connectivity  
5 issues; is that correct?

6 A. Yes.

7 Q. Is it hard to save a practice  
8 when it has experienced connectivity issues?

9 A. It's harder to save.

03:14 10 Q. So if you're saving a practice  
11 that wants to cancel one or two times out of  
12 10, in general, are you saving a practice  
13 with connectivity issues something on the  
14 order of one out of 50 or a hundred times?

15 A. You mean out of those, say, 50 I  
16 can save one, is that what you mean?

17 Q. Yeah.

18 A. Probably, yeah. It's hard to  
19 save them when there are connectivity issues.

03:15 20 Q. It's an overriding issue if the  
21 practice experiences a problem where the  
22 screen goes dark, it's just -- almost never  
23 will they stay with PatientPoint during that  
24 time period; is that correct?

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1 MR. BERNAY: Object to the form.

2 You can answer.

3 A. I wouldn't say never. I mean,  
4 they may give us another chance. It's  
5 possible to save them.

6 Q. But that one reason is enough  
7 for 49 out of 50 who want to cancel for that  
8 reason; is that correct?

9 MR. BERNAY: Object to the form.

03:15 10 You can answer.

11 A. Correct.

12 Q. You can't save a practice with  
13 great content if the screen is dark a lot,  
14 right?

15 A. True, yes.

16 Q. And so in the 2010 to early 2011  
17 time period, when all the connectivity was  
18 through faxes, if practices were switching to  
19 ContextMedia and those practices had had  
03:16 20 connectivity issues, almost all the time  
21 PatientPoint was going to lose that practice  
22 anyway and it just depends whether the  
23 practice goes to television, nothing or  
24 another competitor; would that be accurate?

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1 MR. BERNAY: Objection. Form.

2 You can answer.

3 A. They may or may not have decided  
4 to switch because of that.

5 Q. If they've decided to switch and  
6 they report that connectivity issues were the  
7 reason, it would be very difficult to save  
8 that practice, right?

9 A. Yes.

03:17 10 Q. Because of the connectivity  
11 issues?

12 A. If that's what they've reported,  
13 yes.

14 Q. And so that practice, except  
15 for, you know, the rare one that could be  
16 saved, were going to cancel PatientPoint  
17 anyway, there's nothing you could do about  
18 it, right?

19 A. I'd say yes.

03:17 20 Q. And then whether the practice  
21 goes to television, ContextMedia, Accent  
22 Health, Health Monitor, that's a separate  
23 issue of, you know, somebody who's offering  
24 something, or if they want cable TV they're

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1       going to go to something or nothing, that's a  
2       separate issue from cancelling due to the  
3       connectivity issues, right?

4           A.       Yes.

5           Q.       Have you encountered practices  
6       where the doctors just did not like some of  
7       the content that Healthy Advice had up on its  
8       screens?

9           A.       Maybe once or twice. Not too  
03:18 10       often. Maybe they didn't like advertising.  
11       We offer a disclaimer for that but it hasn't  
12       been a regular thing, just a -- maybe two or  
13       three times at the most since I've been here  
14       and once or twice I did save them by giving  
15       them the little disclaimer and putting up  
16       disclaimers and then the person at the front  
17       desk was able to say this is okay, the doctor  
18       is all right now.

19           Q.       The content that you've seen in  
03:18 20       your meeting room from the primary care  
21       network, does it include live video, like  
22       live action video?

23           A.       No. It's still the -- it's not  
24       really -- it's not like a TV per se.

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1                   Q.        There's not actual people  
2       walking around talking captured in video,  
3       right?

4                   A.        Right.

5                   Q.        Have you encountered -- and  
6       that's been the same since 2010, right?

7                   A.        Right.

8                   Q.        Have you encountered practices  
9       who have given the feedback that they prefer  
03:19 10      video to the content that Healthy Advice or  
11      PatientPoint is providing to them?

12                  A.        Yes.

13                  Q.        And when you get that feedback  
14       there's no video option to give them from a  
15      PatientPoint network, correct?

16                  A.        Correct.

17                  Q.        So there's not a lot that you  
18       can do to save that practice either, right?

19                  A.        Correct.

03:20 20                  Q.        If a practice wants video then  
21       that alone would be a sufficient reason for  
22       them to switch to a competitor or to  
23       television, right?

24                  A.        Yes.

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1                   Q.        And if they don't give you  
2 another reason you would assume that that's  
3 the reason that they're switching, right?

4                   A.        Yes.

5                   Q.        Have you encountered practices  
6 -- PatientPoint Network's content doesn't  
7 have much sound, right?

8                   A.        It didn't back in 2010. It does  
9 now.

03:20            10           Q.        I've heard it described as  
11 virtually silent. Has that changed?

12                A.        Uh-huh. Yes.

13                Q.        When did that change?

14                A.        In the past year.

15                Q.        In 2014?

16                A.        And '13; 2013 to '14.

17                Q.        So how much sound is there now?

18                A.        It's over 50 percent. I'd say  
19 60 percent sound now.

03:21            20           Q.        People talking?

21                A.        Uh-huh. Yes.

22                Q.        Music?

23                A.        No music but talking.

24                Q.        Are people shown on the screen

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1 when they're talking?

2 A. Yes. Well, the segments.

3 Q. Photos of them?

4 A. Yes.

5 Q. Not videos of them?

6 A. No, not video. Lot of the  
7 segments have them.

8 Q. Was the sound added because  
9 feedback came from your team that practices  
03:21 10 like sound and engaged the patients more?

11 A. Yes.

12 Q. That was important enough to the  
13 practices that sometimes they would switch to  
14 a competitor that had sound just for that  
15 reason, right?

16 A. Yes.

17 Q. And if a practice representative  
18 told you that the reason they are switching  
19 to a competitor was because they wanted sound  
03:22 20 and they didn't give you any other reason,  
21 then you would conclude that that was the  
22 sole reason that they were switching, right?

23 A. Yes.

24 Q. And when you were in that

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1 situation prior to midway through 2013, when  
2 the sound was ramped up to about 50 percent  
3 on PatientPoint's network, there wasn't much  
4 you could do, correct?

5 A. Correct.

6 Q. But then this feature was added  
7 in order to more effectively compete, right?

8 A. Yes.

9 Q. PatientPoint ramped up their  
03:22 10 content so about half of it had sound and  
11 since that time PatientPoint's been able to  
12 compete more effectively with competitors  
13 that have sound, right?

14 A. Yes.

15 Q. And have you found it more easy  
16 to deal with practices who want sound since  
17 that time?

18 A. Yes.

19 Q. Has that come up with  
03:22 20 competitors -- with practices who want to  
21 switch to ContextMedia?

22 A. I haven't come --

23 MR. BERNAY: Object to the form  
24 -- I'm sorry -- object to the form. You can

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1 answer.

2 A. I haven't come up with that yet.

3 Haven't dealt with it.

4 Q. Since the change in 2013?

5 MR. BERNAY: Same objection.

6 You can answer.

7 A. Correct.

8 Q. Did you say correct?

9 A. Correct.

03:23 10 Q. Prior to the change in 2013  
11 where PatientPoint added more sound you did  
12 deal with people, practices who wanted to  
13 switch to the ContextMedia because it had  
14 sound, right?

15 A. Not so much ContextMedia. I had  
16 actually dealt with it with Accent Health.

17 Q. Accent Health had sound --

18 A. Sound.

19 Q. -- in its content?

03:23 20 A. Yes.  
21 Q. And it was a driving factor for  
22 customers to change, practices to change to  
23 Accent Health?

24 A. Yes.

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1                   Q.        Have you encountered practices  
2        who gave you feedback about the size and  
3        quality of the hardware, the monitors?

4                   A.        For PatientPoint's monitor?

5                   Q.        Yes.

6                   A.        I have, yes, on occasion and  
7        offered upgrades to a larger monitor.

8                   Q.        So PatientPoint's monitors used  
9        to all be 19 inches?

03:24           A.        They did, yes.

11                  Q.        Then at some point they offered  
12        -- what's the new size?

13                  A.        There's 26 and 32.

14                  Q.        When did they start offering  
15        those?

16                  A.        Gosh, well, since -- when I --  
17        19 was well before I started. When I started  
18        it was 27 -- 27 inch was popular and 32, and  
19        then 26 came on board, gosh, I guess about  
03:25           20 2012, and now 2012, 2013 26 and 32 is now all  
21        we do offer.

22                  Q.        No more 27?

23                  A.        Correct.

24                  Q.        Have you encountered practices

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1 who were offered a larger screen or a better  
2 screen by a competitor?

3 A. I haven't heard. Not that I  
4 know of.

5 Q. Have you encountered practices  
6 that have any other problem with the  
7 hardware, that it's obtrusive or heavy or in  
8 the way or anything like that?

9 A. No.

03:25 10 Q. Have you encountered practices  
11 who say it's important that they have some  
12 ability to customize the content?

13 A. I've had a few that like that,  
14 to be able to customize it.

15 Q. I think we were saying earlier  
16 that putting in the custom messages is really  
17 important, right?

18 A. Yes.

19 Q. That's a big part of what you do  
03:26 20 to kind of retain practices is engage them  
21 with the custom messages?

22 A. Yes.

23 Q. So when I say have you  
24 encountered any where customization is

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1 important, are you thinking of customizing  
2 the other segments when you say it's only a  
3 few?

4 MR. BERNAY: Object to the form.

5 You can answer.

6 A. You mean --

7 Q. The confusion is probably mine.

8 So I'm asking have you encountered practices  
9 to whom it's important to be able to  
03:26 10 customize the message, and you said a few and  
11 I just --

12 A. You mean if they were wanting  
13 to -- I was thinking if they were wanting to  
14 cancel and didn't know about the  
15 customization or --

16 Q. I see.

17 A. But usually when -- if somebody  
18 were calling to cancel I always bring that  
19 up, but I'm kind of confused, too.

03:27 20 Q. So only a few times have  
21 people -- have practices given you the  
22 feedback that I'm switching because you can't  
23 customize my network and a competitor can;  
24 that's happened sometimes but rarely?

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1                   A.        Yeah.  It doesn't happen too  
2 often.

3                   Q.        Because you can customize?

4                   A.        Yes, you can.  Yes.

5                   Q.        So if that happened you'd say  
6 well, actually, you can customize.  Let me  
7 explain how.

8                   A.        Yes.

9                   Q.        And that's something that -- you  
03:27 10 say you contact a hundred customers in a  
11 given week.  About how many of those have to  
12 do with putting in custom messages?

13                  A.        Gosh, over 60 of them --

14                  Q.        Over -- okay.  So over time more  
15 than half of the e-mails and calls that you  
16 have with customers have to do with  
17 customized messages?

18                  A.        Yes.

19                  Q.        Do you think that's an important  
03:28 20 tool in retaining those practices as members  
21 of the PatientPoint network?

22                  A.        Yes.

23                  Q.        And that's why you focus on that  
24 so much?

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1 A. Yes.

2 Q. It's a nice feature?

3 A. It is.

4 Q. If you didn't have it you would  
5 then expect that some portion of those would  
6 be less interested in PatientPoint's network?

7 A. Yes.

8 Q. And some portion of them would  
9 cancel because of it?

03:28 10 A. Yes.

11 Q. Do you think customer service is  
12 important to retaining members of  
13 PatientPoint's networks?

14 A. Yes.

15 Q. Do you think that -- have you  
16 encountered practices that switch because of  
17 poor customer service?

18 A. Yes.

19 Q. Have you encountered practices  
03:29 20 where that was the only reason for the  
21 switch?

22 A. I haven't encountered any  
23 because of that.

24 Q. So it's just one part of the

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1 feedback that they give is they didn't like  
2 the customer service they received? You said  
3 sometimes you get feedback about poor  
4 customer service, right? What am I saying  
5 wrong? I'm sorry.

6 A. I think it's most -- it's very  
7 important. I haven't received any bad  
8 feedback on it but I think that's most  
9 important. I haven't had anybody cancel  
03:29 10 because they have had bad feedback from  
11 another competitor or anything, but I feel  
12 like that's the most important thing for  
13 anyone to stay with us.

14 Q. They're not cancelling because  
15 you give good customer service?

16 A. Correct.

17 Q. That's why it doesn't come up?

18 A. Correct.

19 Q. Now I understand why you're  
03:30 20 confused. So you've received feedback from  
21 customers that they like your customer  
22 service?

23 A. Correct.

24 Q. The PatientPoint's customer

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1 service?

2 A. Yes.

3 Q. And you said that that's one of  
4 the most important things in terms of  
5 retaining practices in a network?

6 A. Yes.

7 Q. And then you're in customer  
8 relationship management so you're dealing  
9 with people who have already signed up,  
03:30 10 correct?

11 A. Yes.

12 Q. There's another team that is  
13 made up of sales representatives, right?

14 A. Yes.

15 Q. And they are important to  
16 recruiting practices who have not been in a  
17 PatientPoint network before, correct?

18 A. Yes.

19 Q. And competitors also have teams  
03:31 20 of sales reps, right?

21 A. Yes.

22 Q. And whether a practice comes  
23 into PatientPoint's network or whether a  
24 practice goes to a competitor's network would

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1 also presumably have something to do with  
2 those sales reps, right --

3 A. Yes.

4 Q. -- what the sales reps are  
5 saying and doing?

6 A. Yes.

7 Q. So one factor with a new  
8 practice why they might come into  
9 PatientPoint's network or go with a  
03:31 10 competitor's network would be the quality of  
11 those sales reps and what they say and do,  
12 right?

13 A. Yes.

14 Q. Otherwise, they wouldn't be  
15 adding any value because you'd have your  
16 product and sells itself, right?

17 A. Correct.

18 Q. So there's some portion of a  
19 practice's decision makings that are based on  
03:31 20 all the other factors that we talked about  
21 that are great for PatientPoint or maybe  
22 where it struggled in the past or may  
23 continue to struggle, then sales reps is  
24 another factor and these are all part of a

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1      decision making process, potentially?

2            A.       Yes.

3            Q.       And, as we've been going through  
4        them, you've sort of described that this is  
5        what I think is the most important customer  
6        service, this I think is -- you know, this  
7        has only come up a little bit. This is one  
8        of the more important factors. I think what  
9        I'd like to do is go back through the list  
03:32 10      and try to just get a gauge of how important  
11     each one is based on your experience. So I  
12     like numbers, I think we've already done like  
13     a one out of 10 kind of thing.

14           A.       Okay.

15           Q.       Let's do one out of a hundred.

16           A.       Okay.

17           Q.       And first I'm going to list all  
18        the things that I -- that we just talked  
19        about as factors so that you kind of have  
03:32 20      them in your mind, and if you want to write  
21        them down you can, and then I'm just going to  
22        go through and say how important is that one  
23        out of a hundred --

24           A.       Okay.

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1 Q. -- based on your four years of a  
2 hundred calls a week. You understand what  
3 I'm saying?

4 A. Okay.

5 Q. And you don't have to make them  
6 add up to a hundred. You know, if they're  
7 all 80, they're all 80, you know what I mean?

8 A. Okay.

9 Q. But, you know, 10, 25, 72,

03:33 10 whatever you want to rate for each one.

11 A. Okay.

12 Q. So the factors that I have are  
13 the content that's shown on the screens, the  
14 video versus non-video. Remember we talked  
15 about that?

16 A. Uh-huh. Yes.

17 Q. The sound versus no sound,  
18 connectivity issues. Remember these can be  
19 both bad and good --

03:34 20 A. Okay.

21 Q. -- it's just how important is  
22 it. It seemed to me like you didn't think  
23 that the hardware was a factor?

24 A. No.

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1                   Q.     Customizability, custom  
2 messaging?

3                   A.     Yes.

4                   Q.     Customer service and the sales  
5 representatives, their activities and words?

6                   A.     Yes.

7                   Q.     So are there any other factors  
8 that you were thinking of that I left out?

9                   A.     What about the -- no, that's  
03:35 10 good.

11                  Q.     And if you think of one later,  
12 let me know.

13                  A.     Okay.

14                  Q.     So, one out of a hundred, how  
15 important would you rate the content that's  
16 shown on the screen?

17                  MR. BERNAY: Object to the form  
18 of the following questions. I think this is  
19 an arbitrary exercise, getting her to answer  
03:35 20 on a scale. You've already asked her whether  
21 this is important or not. I'll let her  
22 answer but note my objection for the record.  
23 You can answer.

24                  A.     Content is 95 percent.

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1 Q. And when you say percent, you  
2 mean 95 out of a hundred it's very important?

3 A. Yes.

4 Q. What about having video versus  
5 not having video?

6 MR. BERNAY: Just note a  
7 continuing objection to this line of  
8 questioning.

9 A. Ninety.

03:36 10 Q. Okay. Sound versus no sound?

11 A. Fifty.

12 Q. Connectivity issues?

13 A. One hundred.

14 Q. Customized messaging?

15 A. Ninety.

16 Q. Customer service?

17 A. A hundred.

18 Q. Take pride in your work?

19 A. I do.

03:36 20 Q. And the activities of sales  
21 representatives?

22 A. One hundred because if they  
23 don't do their job I'm not going to have one.

24 Q. And then I understand that you

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1    don't always rate these things one out of a  
2    hundred, but as we were going through you  
3    were noting some that were more important and  
4    less important, right?

5           A.     Yes.

6           Q.     Can you think of a better way  
7    than rating them one out of a hundred to  
8    figure out how much more important or how  
9    much less important?

03:37    10           MR. BERNAY:   Object to the form.  
11          You can answer.

12           A.     Well, all along we've always  
13    gotten along without sound because people  
14    usually can read the segments and now we're  
15    introducing sound and you can go either way  
16    because if you wanted to have a TV in there  
17    you could, so you can still do that.   You can  
18    turn it down and we can coexist, so that's  
19    why I went 50/50 on that.

03:37    20           Q.     Because that could or could not  
21    make a difference?

22           A.     Correct.

23           Q.     But the ones that are more up  
24    near a hundred are much more likely to make a

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1       complete difference. It's like if you don't  
2       have it, it's not going to work; if you do  
3       have it, that's awesome?

4                   A.       Right.

5                   Q.       Can you think of a better way to  
6       convey that than numbering out of a hundred?

7                   MR. BERNAY: Objection.

03:38       8                   Q.       I'm willing to kind of go

9       through the list again in a different way, if  
10      you like.

11                   MR. BERNAY: Same objection.

12      You can answer.

13                   A.       Do you mean like one of the  
14      other ones? The one I didn't go a hundred  
15      on?

16                   Q.       No, no. I just mean if you want  
17      to go through the whole list and compare them  
18      in a different way I could. This was kind of  
19      the best way that I could think of to gauge  
03:38   20      their relative importance. We could give  
21      them rotten tomatoes. I'm happy with this  
22      but I wanted to ask you if there's a  
23      different way in your mind that you rate the  
24      relative importance of these various factors.

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1                   A.     Customer service, I think, is,  
2 of course, number one. I mean, that's --

3                   Q.     So you want to maybe rank them?  
4                   A.     One, two, three, four, like  
5 that?

6                   Q.     You want to? Do you think that  
7 would be a better way, just a different way?

8                   A.     I mean, they're all important to  
9 the -- in order to have a good company to  
10 make everything work.

11                  Q.     If you were ranking them, then  
12 the ones that, you know, had -- you gave the  
13 highest score out of a hundred would be at  
14 the top of the list and then there would be  
15 some that are tied if you gave them the same  
16 number and you kind of marched down the list,  
17 right?

18                  A.     Yes.

19                  Q.     Okay. Let me know if you think  
03:39 20 of a different way to kind of get at which  
21 ones are more important and less important if  
22 you think of one later. Okay?

23                  A.     Okay.

24                  Q.     I'm going to hand you what we're

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1 going to mark as Exhibit 30.

2 (Exhibit 30 was marked.)

3 Q. Is this an e-mail from you to  
4 Lori Smith dated March 10, 2011?

5 A. Yes.

6 Q. The information that's in the  
7 bottom of the e-mail, is that a CMS entry?

8 MR. BERNAY: Take your time to  
9 review the e-mail.

03:40 10 A. I'm sorry, what was your  
11 question?

12 Q. Is this an e-mail from you to  
13 Lori Smith dated March 10th, 2011?

14 A. Yes.

15 Q. And, I'm sorry, that wasn't my  
16 last question. My last question was is that  
17 information at the bottom of the e-mail a CMS  
18 entry?

19 A. Yes.

03:41 20 Q. Do you make an entry like this  
21 each time that you have a call or an e-mail  
22 with a practice?

23 A. Yes.

24 Q. Do you make it according to

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1       policies and procedures that are given to you  
2       by PatientPoint?

3           A.       Yes.

4           Q.       And, as you've said previously,  
5       you make a CMS entry like this during or very  
6       shortly after the call or the e-mail,  
7       correct?

8           A.       Very shortly after, yes.

03:41       Q.       At a time when it's very clear  
10       in your mind, right?

11           A.       Yes.

12           Q.       And this type of CMS entry, all  
13       CMS entries are made in the ordinary course  
14       of your job, correct?

15           A.       Yes.

16           Q.       And they're kept by the CMS  
17       system in the ordinary course of your job,  
18       right?

19           A.       Yes.

03:42       Q.       And you have direct knowledge of  
20       everything that I've just asked you, right?

22           A.       Correct, yes.

23           Q.       Which you got through your job?

24           A.       Yes.

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1           Q.     I don't mean to be too  
2 rudimentary, I'm just running through this  
3 list. And is it, the other 10 members of  
4 your team and other members of your team who  
5 have come and gone since 2010, it's part of  
6 their jobs to make entries like this, right?

7           A.     Correct.

8           Q.     And they also make them in the  
9 ordinary course of their jobs, correct?

03:42       A.     Yes.

11           MR. BERNAY: Object to the form.  
12 You can answer.

13           Q.     And the CMS entries that they  
14 make are also kept in the ordinary course of  
15 business, right?

16           A.     Yes.

17           MR. BERNAY: Objection. You can  
18 answer.

19           Q.     And you have knowledge of all  
03:42       20 the questions that I just asked you, right,  
21 from your job?

22           A.     Yes.

23           Q.     When a practice representative  
24 speaks to you or e-mails you about a

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1     termination, part of your job is asking them  
2     what reason in their mind is causing them to  
3     switch, right?

4                   A.     Yes.

5                   Q.     And then they give you that  
6     information, right?

7                   A.     Yes.

8                   Q.     Sometimes?

9                   A.     Correct. Yes.

03:43 10                   Q.     And if they give it to you, your  
11     instructions are to make sure it goes in the  
12     CMS entry, correct?

13                   A.     Yes.

14                   Q.     And that's notating the account?

15                   A.     Yes.

16                   Q.     Do you happen to remember Joani  
17     Lesser?

18                   A.     To this day, no, until reading  
19     this e-mail.

03:44 20                   Q.     But does this jog your memory  
21     and you kind of remember her now?

22                   A.     Yes.

23                   Q.     So you'd forgotten about her but  
24     it's bringing back pleasant memories?

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1                   A.        It's an okay memory.  It's part  
2 of the job.

3                   Q.        Is she related to James Lesser?

4                   A.        It sounds like it, yes.

5                   Q.        Do you remember that?

6                   A.        I don't.  I -- just by reading  
7 this.  I mean, it's been so long.

8                   Q.        But you do have a memory of  
9 speaking with Joani?

03:44            A.        Yes.

11                  Q.        Was she a pleasant person?

12                  A.        Yes, it was a nice practice.

13                  Hated to lose them.

14                  Q.        Do you remember speaking with  
15 Joani on multiple occasions then?

16                  A.        You know, I can't remember.  I  
17 must have because, you know --

18                  Q.        You have a general impression of  
19 her?

03:44            A.        Yes.

21                  Q.        Which must have come from  
22 multiple conversations; is that right?

23                  A.        Yes.  Yes.

24                  Q.        This e-mail that's been marked

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1 as defense Exhibit 30 is a request to cancel,  
2 right?

3 A. Yes.

4 Q. Or, excuse me, I said e-mail.

5 This e-mail reflects a phone call that was a  
6 request to cancel, right?

7 A. Yes.

8 Q. Do you write this type of e-mail  
9 in the ordinary course of your job?

03:45 10 A. Yes.

11 Q. It's a regular practice to put  
12 the CMS entry at the bottom of an e-mail and  
13 maybe a short comment and send it to somebody  
14 who would be interested in it?

15 A. Yes. Like I have scheduled  
16 removal for April. This is what's usually  
17 going to go to Amy, a reason why and when  
18 it's going to be removed.

19 Q. So there's a regular practice  
03:45 20 and procedure in your job of sending e-mails  
21 like this?

22 A. Yes.

23 Q. And keeping them in the ordinary  
24 course?

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1 A. Yes.

2 Q. When Joani called you to cancel  
3 did you go through the script about asking  
4 why?

5 A. Yes.

6 Q. And did she give you a reason?

7 A. Yes.

8 Q. What was the reason?

9 A. She wanted -- well, her daughter  
03:46 10 was an endocrinologist and because of that  
11 she found that the other office she was going  
12 to go with, competitor, their information was  
13 a little more along the line of what dealt  
14 with a little more closer than what we had,  
15 the product that we had, so it was -- it had  
16 more information that dealt with what they  
17 were going to be dealing with. Ours kind of  
18 encompasses a little bit of everything where  
19 hers -- theirs is -- narrows down to more  
03:46 20 rheumatology.

21 Q. And this was RHN, which is put  
22 out by ContextMedia?

23 A. Yes.

24 Q. That's the competitor that

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1 replaced PatientPoint system?

2 A. Yes.

3 Q. And that was the reason that

4 Joani gave you for the switch?

5 A. Yes.

6 Q. Did Joani also mention that

7 ContextMedia had a longer loop?

8 A. Yes.

9 Q. Did she specify how much longer?

03:47 10 A. No.

11 Q. Do you understand what loop  
12 means?

13 A. Just how long -- yes, the  
14 program, itself, is going to be longer.

15 Q. The programming repeat after a  
16 certain amount of time?

17 A. Yes.

18 Q. And PatientPoint system at the  
19 time probably was repeating every half hour;  
03:47 20 is that correct?

21 A. Yes.

22 Q. Sometimes maybe up to 40, 45  
23 minutes?

24 A. Yes.

Joyce Lawrence, 3/19/2014

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1                   Q.     Do you know how long RHN's loop  
2 was at the time?

3                   A.     No.

4                   Q.     But that was important to Joani,  
5 right?

6                   A.     Yes.

7                   Q.     Joani notes that they did very  
8 much like your program before RHN came to  
9 compete with it, correct?

03:48           A.     Yes.

11                  Q.     So these competitive advantages,  
12 the more focused rheumatology information and  
13 the longer loop, were the reason for her  
14 switch. It wasn't that she was dissatisfied  
15 with PatientPoint before that, correct?

16                  A.     Correct.

17                  Q.     There was no confusion on  
18 Joani's part, she knew that RHN was a  
19 competitor of PatientPoint and she was  
03:48           choosing them over PatientPoint, correct?

21                  A.     Correct.

22                  Q.     And she said that RHN offered to  
23 take it down, correct?

24                  A.     Yes.

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1                   Q.     But you told her that they're  
2 not allowed to do that, right?

3                   A.     Correct.

4                   Q.     You think she understood you?

5                   A.     Yes.

6                   Q.     You have no reason to believe  
7 that, when you tell a practice that a  
8 competitor is not allowed to touch the  
9 equipment, that they somehow don't  
03:49                understand, right?

10                  A.     Right.

11                  Q.     And you, you know, it's part of  
12 your job to communicate effectively with  
13 practices, right?

14                  A.     Yes.

15                  Q.     So you can kind of get a feel if  
16 your point is getting across or if they're  
17 confused in any way?

18                  A.     Yes.

19                  Q.     And if they were confused would  
20 you follow up and make sure that they  
21 understood you?

22                  A.     Yes.

23                  MR. BERNAY:   We've been going

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1 for a while. Let's take a break.

2 MR. HANKINSON: Okay.

3 (Break taken.)

4 Q. Ms. Lawrence, have you heard of  
5 churn? I think we mentioned it earlier  
6 today.

7 A. Yes.

8 Q. Have you heard of churn during  
9 your work?

04:05 10 A. Yes.

11 Q. What does that refer to  
12 specifically at PatientPoint?

13 A. The ins and outs. What I think  
14 of is somebody -- one going in, one going  
15 out.

16 Q. One what?

17 A. One service, one company going  
18 in, one company going out. I think of it  
19 like that.

04:05 20 Q. One provider of waiting room  
21 network services going into a practice while  
22 the other competitor goes out?

23 A. Correct. Yes. One going out,  
24 one going in.

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1 Q. Is churn something that

2 PatientPoint tracks?

3 A. Yes.

4 Q. How do they do that?

5 A. I don't actually know exactly  
6 how it goes about doing it. I'm sure we have  
7 reports that run but I don't see that end of  
8 it but I'm sure that there are reports that  
9 run.

04:06 10 Q. You don't see that end of it.

11 Are you on the side of it where you're  
12 inputting information in some way?

13 A. No.

14 Q. No?

15 A. No. I mean, I don't get to see  
16 that. I mean, I do -- I put my notes in and  
17 I'm sure there's some type of report that  
18 runs but I don't get to -- I don't see that  
19 side of it.

04:06 20 Q. What type of report?

21 A. Well, if the company runs  
22 reports, that type of thing. I don't see  
23 that side of it or know the outcome.

24 Q. Let me show you a document that

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1 we marked yesterday. Handing the exhibit,  
2 Defendant's Exhibit -- I'm handing the  
3 witness Defendant's Exhibit 27. Do you  
4 recognize that document at all?

5 MR. BERNAY: Take a minute and  
6 look through the document.

7 (Exhibit 27 was marked.)

8 A. I don't. I don't -- no.

04:07 9 Q. Do you recognize any of the  
10 words in it or numbers, headings, anything?

11 MR. BERNAY: Objection to the  
12 form. You can answer the question.

13 A. I mean, I know some of the,  
14 like, competitor, brochures, advertising.

15 Q. Did you ever receive training or  
16 instructions about picking just one reason  
17 for a switch to a competitor or to  
18 television?

19 A. Yes, yes. If there's -- like  
04:08 20 some of these are a reason code.

21 Q. What's a reason code?

22 A. A reason for an office to choose  
23 to leave, to move, to leave our company.

24 Q. A reason that a practice gives

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1 to terminate PatientPoint's waiting room  
2 network service has a code that's assigned to  
3 it; is that right?

4 MR. BERNAY: Object to the form.

5 You can answer.

6 A. Yes.

7 Q. Is there a long list of those  
8 reasons they each have a code?

9 A. Just the ones mentioned here.

04:09 10 Q. Just the ones that are listed on  
11 the first page of Defendant's Exhibit 27?

12 A. Yes.

13 Q. Did you receive training in what  
14 those codes correspond to or how to pick a  
15 particular code?

16 A. It's not so much training but it  
17 just comes up on our screen. Yes, I guess it  
18 is training. Comes up on our screen, on our  
19 monitor.

04:09 20 Q. When does it come up on your  
21 monitor?

22 A. When they click a little button  
23 to choose when they're cancelling.

24 Q. So somebody calls or e-mails you

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1 from a practice and says I want to cancel,  
2 you talk to them in the way that we've  
3 discussed earlier today. At some point you  
4 click a button. Is this connected to the CMS  
5 system?

6 A. Correct.

7 Q. So you click a button in the CMS  
8 software and -- that indicates the practice  
9 wants to cancel, right?

04:10 10 A. Yes.

11 Q. And then after that at some  
12 point there's an option given to you that  
13 says -- that you're supposed to input a  
14 reason code?

15 A. It will be a little drop down  
16 and these little reasons will come down and  
17 you just choose which one, why they're  
18 leaving.

19 Q. And is it limited by the system  
04:10 20 so that you can only choose one reason code?

21 A. Actually you can -- I think  
22 there's two. You can choose two reason codes  
23 why they're leaving.

24 Q. No more than two?

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1 A. Yes.

2 Q. Did you ever receive training or  
3 instruction about how to select just one or  
4 two reasons if a practice gives you more than  
5 that?

6 A. We can put it in the notes.

7 Q. And you do put it in the notes,  
8 right?

9 A. Correct.

04:11 10 Q. I'm just asking did anybody ever  
11 tell you, if the practice gives you three  
12 reasons or five reasons, how to pick the ones  
13 to put in as reason codes?

14 A. We'll choose from this list and  
15 pull the ones that actually relate to that  
16 office, what they're saying.

17 Q. And were you instructed to use  
18 your best judgment in doing this?

19 A. Yes.

04:11 20 Q. And were you instructed what the  
21 different reason codes meant?

22 A. Yes.

23 Q. Was that during a weekly meeting  
24 or in a separate session?

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1           A.       When we first talked when we are  
2       hired, go through our training.

3           Q.       And it's been the same since you  
4       started in 2010?

5           A.       Yes.

6           Q.       Have the reason codes changed or  
7       has it stayed the same since then?

8           A.       I think it's pretty much stayed  
9       the same.

04:12       Q.       Were you trained at that time  
10      how to get the practice to tell you the  
11      reasons?

13        A.       We just asked. I mean, we just  
14      asked what the reason was.

15        Q.       You were provided with the  
16      binder about -- the WRN binder, correct?

17        A.       Yes.

18        Q.       And that had some instructions  
19      about how to get that information from the  
04:12      practice, right?

21        A.       It had suggestions.

22        Q.       Were you told to follow the  
23      suggestions?

24        A.       Yes.

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1                   Q.     Did that include asking  
2     follow-up questions if at first the practice  
3     didn't give you a real answer?

4                   A.     Well, we'd ask why and then we'd  
5     ask if there was anything else we can do to  
6     save, save you, is there something else that  
7     you're looking for. We would just lead with  
8     that.

9                   Q.     And the idea was that if you ask  
04:12 10    if there's anything else you can do and the  
11    practice says some things, then that's  
12    probably the reason that they're switching?

13                  A.     Correct.

14                  Q.     Were there other leading  
15    questions like that, that were intended to  
16    get a reason from the practice representative  
17    who was trying to cancel?

18                  A.     I don't know of any offhand  
19    right now but --

04:13 20                  Q.     It was part of the binder and  
21    the training?

22                  A.     Correct.

23                  Q.     The reason codes are entered  
24    into the system every time a practice

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1       cancels, correct?

2           A.       Yes.    You can't go to another  
3       screen unless you complete that screen.

4           Q.       And those reason codes are  
5       entered as a part of the ordinary course of  
6       business, right?

7           A.       Yes.

8           Q.       And they're kept in the CMS as a  
9       part of the ordinary course of business,  
10      correct?

11          A.       Yes.

12          Q.       And the person who's entering  
13       the reason code is the person who just  
14       interacted with the practice about what that  
15       reason was, correct?

16          A.       Correct.

17          Q.       And do they enter that reason  
18       code at or right after the call or e-mail  
19       exchange with the practice?

20          A.       Right.   Yes.

21          Q.       In every case?

22          A.       When they're cancelling.

23          Q.       In every case that's true?

24          A.       Yes.

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1           Q.     Is a reason that this is a very  
2     specific process so that PatientPoint can  
3     look back at that data at some point?

4           A.     Yes, so we know why.

5           Q.     And then some analysis can be  
6     done based on actual numbers about the  
7     reasons that practices switch to a  
8     competitor, correct?

9           A.     Correct.

04:14 10           Q.     And does the CMS also track  
11    which competitor practices switch to when the  
12    practice tells you?

13           A.     That I don't know. I don't have  
14    something that I click on to say which  
15    competitor because I don't --

16           Q.     That's just entered into the  
17    notes?

18           A.     Right. Sometimes we don't know  
19    who.

04:15 20           Q.     Right. You always ask, correct?

21           A.     Correct.

22           Q.     And if the practice tells you  
23    then you always enter it into CMS, correct?

24           A.     Correct.

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1                   Q.     Do you usually ask a follow-up  
2     question if the practice doesn't tell you at  
3     first?

4                   A.     I do.

5                   Q.     Do you do your best --

6                   A.     Well, I can't always -- yeah, I  
7     do my best to find out and if they don't, I  
8     don't keep asking.

9                   Q.     You apply your customer service  
04:15 10   expertise to get the answer as best you can?

11                  A.     Yes. I don't want to make them  
12   mad.

13                  Q.     You're trained in customer  
14   service, correct?

15                  A.     Yes.

16                  Q.     How much training do you have?

17                  A.     About 30 years.

18                  Q.     Thirty years of continuous  
19   training?

04:15 20                  A.     Of being in customer service.

21                  Q.     Including at various companies?

22                  A.     Yes.

23                  Q.     And did those various companies  
24   give you periodic trainings throughout those

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1 years?

2 A. Yes.

3 Q. Both specific to the practices  
4 at that company and also just general  
5 customer service principles?

6 A. Yes.

7 Q. Have you received specific  
8 training in how to elicit information from a  
9 customer?

04:16 10 A. Not so much that.

11 Q. What kinds of things?

12 A. I mean, I haven't been told  
13 exactly how to go about pulling information  
14 from a customer, no.

15 Q. What kind of things have you  
16 received training in?

17 A. Just about how to -- well, phone  
18 training and just how to speak to a customer,  
19 how to work with practices.

04:16 20 Q. In what sense did you get  
21 trained in how to work with practices?

22 A. How to -- just what not to ask,  
23 what to ask. I don't know how much --

24 Q. I'd like all the detail.

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1           A.       I don't know.  I just have a  
2 phone etiquette.

3           Q.       What do you mean by what to ask  
4 and what not to ask?

5           A.       I mean, there's -- I don't  
6 usually cross the -- I'm not going to go  
7 overboard and ask -- I'm not going to make a  
8 customer mad.  If they don't want to talk  
9 about something or -- I'm not going to call  
04:17 10 them too many times.  If somebody in another  
11 department just called, I'm supposed to call  
12 them in a few days, I stop.  I don't call and  
13 bug them again.  Little things like that.

14           Q.       When you're on calls or e-mail  
15 exchanges with practices are you applying all  
16 your experience in 30 years and all the  
17 training that you've gotten --

18           A.       I try to.

19           Q.       -- to do the best job you can,  
04:17 20 right?

21           A.       I do.

22           Q.       Do you think you're, at this  
23 point, pretty good at your job?

24           A.       I feel I am.

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1 Q. Do you feel you're an expert in  
2 customer service?

3 A. I feel I am.

4 Q. Do you feel that, based on your  
5 experience, you can get a good understanding  
6 from most practices about the information  
7 that you're trying to get from them?

8 A. Yes.

9 Q. Do you feel that, from your  
04:18 10 experience and training, you can tell if  
11 you're not getting all the information?

12 A. Sometimes.

13 Q. You get a feeling?

14 A. Yes.

15 Q. Where you feel like you're not  
16 getting the whole story do you enter  
17 something in CMS to indicate that?

18 A. No, I would never do that.

19 Q. You would just give the best  
04:18 20 information that you're able to give and put  
21 that into CMS, correct?

22 A. Correct.

23 Q. And if the practice won't give  
24 you the information you would put that into

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1 CMS?

2 A. Right. If they won't tell me  
3 who then I just put they would not divulge  
4 who.

5 Q. Or why if they won't tell you  
6 why?

7 A. Correct.

04:19 8 Q. How often do you enter a reason

9 but you think that the practice was not being  
10 honest with you?

11 MR. BERNAY: Object to the form  
12 of the question. You can answer.

13 A. Depending on how they --  
14 whatever they said. If --

15 Q. I'm just asking how often.

16 A. How often?

17 Q. It's not something that comes up  
18 a lot, correct?

19 A. Correct.

04:19 20 Q. People are generally honest with  
21 you?

22 A. They are.

23 Q. Ninety-nine times out of a  
24 hundred or more --

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1 A. Yes.

2 Q. -- your feeling is that the  
3 practice representative is being honest with  
4 you?

5 MR. BERNAY: Object to the form.

6 You can answer.

7 A. I feel they are.

8 Q. It's very rare that you would  
9 get the feeling that they're not being  
04:20 10 honest?

11 A. Most of the time.

12 Q. Most of the time it's very rare?

13 A. Correct.

14 Q. The other times it's just rare?

15 A. Yes.

16 Q. Could you tell me what companies  
17 you've worked for in customer service and  
18 about what time frames?

19 A. Central Hardware, '79 to --  
04:20 20 well, 15 years ago -- to '83, '85. I worked  
21 at Time Warner Cable. I'm kind of jumping  
22 around. I work at Fifth Third Bank and I  
23 worked at -- I worked at Fifth Third Bank for  
24 a year and a half in the '80s. I worked at

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1 Time Warner Cable, and that was until 2009  
2 for seven years, so 2002. And it was all  
3 pretty much customer service in those  
4 departments, and then 2010 until now, so I  
5 was a little scrambled there.

6 Q. That's okay. 1979 for about,  
7 let's see, until about the mid 1980s you  
8 worked at Central Hardware?

9 A. Yes.

04:21 10 Q. And that was in customer  
11 service?

12 A. Yes.

13 Q. Did they give you training  
14 throughout that time?

15 A. Uh-huh. Yes.

16 Q. Was there a database that you  
17 entered information into?

18 A. Well, I worked -- yes, there  
19 was. I worked in a computer. I worked -- I  
04:22 20 did payroll.

21 Q. It was pretty cutting edge at  
22 that point?

23 A. I was. I worked at a register,  
24 I was a supervisor.

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1 Q. And there was data entry where  
2 you were trying to get information and then  
3 pass it into a system?

4 A. Yes.

5 Q. And then after that at some  
6 point you worked for Fifth Third Bank just  
7 for a brief period?

8 A. For about a year and a half.

9 Q. Year and a half. Was that in

04:22 10 customer service?

11 A. Yes.

12 Q. Was there entry of information  
13 that you got from customers into a database  
14 there?

15 A. Yes.

16 Q. Did you receive training in how  
17 to do that?

18 A. Yes.

19 Q. And then where did you work  
04:22 20 from, if at all, from sort of the late 1980s  
21 to 2002?

22 A. I think that was Rumpke.

23 Q. Rumpke or Remke?

24 A. Rumpke trash service, customer

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1 service.

2 Q. Was that also, yes, you said,  
3 customer service?

4 A. Yeah. Yes.

5 Q. And did that job involve  
6 eliciting information from customers and  
7 putting it into a database?

8 A. It did.

9 Q. And did you receive training  
04:23 10 throughout your time at Rumpke in how to  
11 effectively do that?

12 A. Yes.

13 Q. Then from 2002 to 2009,  
14 approximately, you worked at Time Warner  
15 Cable; is that right?

16 A. Yes.

17 Q. And there, as well, it was in  
18 customer service?

19 A. Yes, for a year in customer  
04:23 20 service and then I did sales.

21 Q. Okay. When you were in customer  
22 service did you get information from  
23 customers and put it in the database?

24 A. I did.

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1 Q. And did you receive training in  
2 how to do that effectively?

3 A. Yes.

4 Q. When you were in sales at Time  
5 Warner Cable did you also still engage with  
6 customers and potential customers?

7 A. Yes.

8 Q. And did that involve taking  
9 information from those customers and putting  
10 it into a database?

11 A. Yes.

12 Q. Did you receive training from  
13 Time Warner Cable in how to effectively do  
14 that?

15 A. Yes.

16 Q. After that you moved to  
17 PatientPoint from 2010 to present, correct?

18 A. Correct.

19 Q. Do you think there's anyone at  
04:24 20 PatientPoint for a practice -- let me start  
21 over.

22 When a practice cancels and you  
23 are the person who takes the cancellation  
24 call or e-mail is there anyone at

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1       PatientPoint who would know more than you  
2       about the reasons that that practice is  
3       cancelling?

4           A.       There may be. I don't know.

5           Q.       You're not aware of someone else  
6       who would?

7           A.       Correct.

8           Q.       And if there was someone else  
9       who knew more they would be entering  
10      information in CMS, correct?

11          A.       Correct.

12          Q.       Therefore, the information in  
13      CMS entered by you would be the best  
14      information that PatientPoint has about the  
15      reasons for a customer to switch to a  
16      competitor unless there's another CMS entry  
17      about that practice by someone else --

18                MR. BERNAY: Object to the form.

19          Q.       -- is that correct?

04:25 20                MR. BERNAY: You can answer.

21          A.       Can you say that again?

22          Q.       Sure. If there's no other entry  
23      in CMS about the practice switching and the  
24      reasons that the practice is switching to a

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1 competitor, only your entry --

2 A. Okay.

3 Q. -- then you are the person with  
4 the most knowledge about the reason for the  
5 switch at PatientPoint, correct?

6 MR. BERNAY: Same objection.

7 You can answer.

8 A. Correct.

9 Q. We talked about it a lot. I'm  
04:26 10 going to hand you what we are marking as  
11 Defendant's Exhibit 31.

12 (Exhibit 31 was marked.)

13 Q. This is a document that was  
14 produced, meaning given to us, by  
15 PatientPoint's attorneys and they've called  
16 it HAN 001590. That doesn't appear on the  
17 face of this document because it was produced  
18 in a form that didn't have a label on it and  
19 that's when I printed it out, but this is  
04:27 20 that document, the one that you produced to  
21 me by e-mail, Aaron.

22 MR. BERNAY: Just, for the  
23 record, I think it's HAN 005190.

24 MR. HANKINSON: Pardon me.

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1                   MR. BERNAY: And this was -- I  
2 believe this was entered as an exhibit  
3 yesterday as Exhibit 18.

4                   MR. HANKINSON: But there were  
5 some cutoffs.

6                   MR. BERNAY: There was some  
7 cutoffs so this is a version of the same  
8 document with full entries.

9                   MR. HANKINSON: With no cutoffs.

04:27 10           Thank you for that. So HAN 005190.

11                Q.        Ms. Lawrence, do you recognize  
12 the fields, the columns that you can see in  
13 this exhibit as fields in the CMS?

14                A.        Yes.

15                Q.        The column that's labeled  
16 comment text, do those appear to you to be  
17 CMS entries?

18                A.        Yes.

19                Q.        The location ID column, does  
04:28 20 that appear to you to have the numbers that  
21 are assigned to practices?

22                A.        Yes.

23                Q.        Does each practice get a unique  
24 location ID?

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1 A. Yes.

2 Q. The next column after location  
3 ID is location name. In the CMS database do  
4 these location names appear this way?

5 A. Yes.

6 Q. The column after that is program  
7 code and the programs say things like PCN,  
8 ACN. I'm not seeing a CCN but there might be  
9 one. Are those the different networks that  
04:29 10 would be associated with that practice in  
11 CMS?

12 A. Yes.

13 Q. What is stage code?

14 A. What stage they're in now,  
15 whether they're active or cancelled.

16 Q. So active is part of the  
17 network, cancelled is what would be in CMS  
18 after the practice has terminated HAN's or,  
19 excuse me, Healthy Advice's or PatientPoint's  
04:29 20 network?

21 A. Correct.

22 Q. Is stage competitor a field  
23 where, if the competitor that the practice  
24 moves to is known, it's entered into CMS.

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1 A. Yes.

2 Q. So where I see Accent Health in  
3 this column, in Defendant's Exhibit 31, that  
4 would be PatientPoint's best knowledge of  
5 which competitor the practice switched to,  
6 correct?

7 A. Correct.

04:30 8 Q. And if it says television then  
9 PatientPoint's best knowledge is that the  
10 practice cancelled PatientPoint and uses a  
11 television instead, right?

12 A. Yes.

13 Q. What does stage date mean?

14 A. I've not really heard of that  
15 but I'm guessing that was the date that we  
16 removed it.

17 Q. Do you enter a date of removal  
18 in CMS?

19 A. Yes.

04:30 20 Q. And the text that you would  
21 enter in the CMS would appear like these  
22 entries under the column comment text,  
23 correct?

24 A. Yes.

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1                   Q.        In fact, in this spreadsheet  
2        there's not a column for the person who  
3        entered any of the information, correct?

4                   A.        There is not.

5                   Q.        In the CMS any entry in, you  
6        know, text comment would be associated with  
7        the person who entered it, yes?

8                   A.        Usually, yes.

9                   Q.        So if I wanted to look up all  
04:31    10       the comments about practices that Ms.  
11       Lawrence, you, had made there would be a way  
12       to pull up all those comments?

13                  A.        I would think. I don't -- I  
14        don't know the --

15                  Q.        Sure.

16                  A.        -- I don't know how it's done.

17                  Q.        But when you enter it the system  
18        retains the information that you entered it?

19                  A.        I would think because it's done  
04:32    20       under state so -- by state. I don't know how  
21       they do it. I know my states back then -- I  
22       have my certain territories.

23                  Q.        Oh, interesting.

24                  A.        We all have territories. I was

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1 Michigan back in 2010.

2 Q. Really? I did not know that.

3 A. Yeah. Now I'm not Michigan  
4 anymore.

5 Q. Where are you now?

6 A. I'm the lower, Oklahoma,  
7 Texas --

8 Q. And how long have you --

9 A. -- Arizona.

04:32 10 Q. -- how long have you had that  
11 territory?

12 A. Since May of 2013.

13 Q. And were you just Michigan up  
14 until then?

15 A. Uh-huh.

16 Q. So if I went through here and  
17 found Michigan entries they would most likely  
18 be yours unless they were after 2013, mid  
19 2013?

04:33 20 A. Yes.

21 Q. So if you could flip to the  
22 sixth page.

23 MR. BERNAY: Give us the  
24 location ID on the --

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1 MR. HANKINSON: I'm going to.

2 MR. BERNAY: -- just so we know  
3 we're at the right page.

4 Q. So if you're on the sixth page  
5 go to the second row, it should be location  
6 ID 3585994. Are you with me?

7 A. Yes.

8 Q. And that location name is Family  
9 Practice Center of Livonia, L-I-V-O-N-I-A,  
10 right?

11 A. Yes.

12 Q. Do you remember the Family  
13 Practice Center of Livonia in Michigan in  
14 2010?

15 A. Let me read here.

16 Q. Sure.

17 A. Okay. Just by reading the notes  
18 I can't say I remember remember (sic), but  
19 yes.

04:34 20 Q. Looks like the practice wanted  
21 sound?

22 A. Yes.

23 Q. And gave that as the reason for  
24 the switch?

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1 A. Yes.

2 Q. This entry appears as Accent  
3 Health in the stage competitor field. Do you  
4 see that?

5 A. Yes.

6 Q. The comments say, Bonnie was not  
7 sure who competitor was. Thinks it is Accent  
8 Health. Is that right?

9 A. Yes.

04:35 10 Q. Where -- if you weren't sure  
11 from the practice who the competitor was but  
12 you thought it was likely a particular  
13 competitor would you, as part of your job,  
14 still enter that competitor's name into CMS?

15 A. She thought it was Accent  
16 Health. That's why I put it as Accent  
17 Health.

18 Q. It was your best information  
19 about who the competitor was?

04:35 20 A. Correct.

21 Q. So you put it in the CMS, right?

22 A. Yes.

23 Q. The good news is you didn't lose  
24 very many.

Joyce Lawrence, 3/19/2014

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1 A. No.

2 Q. Trying to think of the best way  
3 to do this. These location IDs appear to be  
4 at least roughly -- no, they're not in order.  
5 That's okay. Would you turn to page number  
6 three? The third page. They're not  
7 numbered. This first row of the third page  
8 there's a location ID 3683483. Are you with  
9 me?

04:37 10 A. Yeah.

11 Q. Yes?

12 A. Yes.

13 Q. I see a location name Baptist  
14 Primary Care, Lane Avenue, correct?

15 A. Yes.

16 Q. This would not be one of yours.  
17 This is in Florida, it looks like, right?

18 A. Yes.

19 Q. But a member of the team would  
04:38 20 have entered this into CMS at the time,  
21 right?

22 A. Yes.

23 Q. This looks like it was one of  
24 those connectivity issues, right? Says,

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1 since the one monitor always has problems  
2 working.

3 A. Yes.

4 Q. Then it says they may end up  
5 also cancelling HAF. What's HAF?

6 A. That's our exam room program.

7 Q. And is there revenue that goes  
8 to PatientPoint from the exam room program as  
9 well as from the screen networks in the  
10 waiting rooms?

11 A. Yes.

12 Q. Those programs are separate and  
13 -- right?

14 A. Yes, they are separate.

15 Q. This practice, for instance, is  
16 considering keeping the exam room program but  
17 getting rid of PatientPoint and the waiting  
18 room network, correct?

19 A. Yes.

04:39 20 Q. Is it true that PatientPoint is  
21 happy to coexist with a competitor in a  
22 waiting room?

23 A. Yes.

24 Q. Is that something that you

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1       routinely tell practices when they want to  
2       cancel or switch to a competitor?

3                   A.       Yes.

4                   MR. HANKINSON: Aaron, may I ask  
5       you to share with the witness on this one?

6                   MR. BERNAY: We can share.

7                   Q.       I would like to hand you what  
8       we're marking as Defendant's Exhibit 32.

9                   (Exhibit 32 was marked.)

04:40       Q.       This is a document that was  
10       produced to us, given to us by PatientPoint's  
11       attorneys with a number HAN 003273. Do the  
12       column headings in Defendant's Exhibit 32  
13       appear to be fields from CMS?

14                   A.       Yes.

15                   Q.       The location ID means the same  
16       as in Defendant's Exhibit 31, right?

17                   A.       Yes.

18                   Q.       And the location name would mean  
19       the same thing as in Defendant's Exhibit 31,  
20       correct?

21                   A.       Yes.

22                   Q.       The program code would also mean  
23       the same thing?

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1 A. Yes.

2 Q. The stage code, whether active  
3 or cancelled, that would also be the same as  
4 in -- the same meaning as in Defendant's  
5 Exhibit 31?

6 A. Correct.

7 Q. The stage date, you weren't sure  
8 about but you thought probably was when it  
9 was de-installed, correct?

04:41 10 A. Correct.

11 Q. The created by is a column  
12 that's not in Defendant's Exhibit 31 but is  
13 here in Defendant's Exhibit 32, correct?

14 A. Yes.

15 Q. Do you recognize, for example,  
16 TPittman, which is the entry in the third  
17 row?

18 A. I don't know who that person is  
19 but I do know the other two.

04:42 20 Q. Who are the other two?

21 A. Amy Petrick is the top one and  
22 Missy Reno is the second one.

23 Q. So in the created by column the  
24 initials AP mean Amy --

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1 A. Petrick.

2 Q. -- Petrick?

3 A. She's in IT department.

4 Q. How do you spell that?

5 A. P-E-T-R-I-C-K.

6 Q. Was it Melissa Reno?

7 A. Missy, M-I-S-S-Y, and Reno,  
8 R-E-N-O.

9 Q. Is the meaning of MReno, all one  
04:42 10 word, in the second row of the created by  
11 column, right?

12 A. Yes.

13 Q. Is this a field in CMS that  
14 states who wrote the comments text in CMS?

15 A. Yes.

16 Q. So if you wrote the comment text  
17 in CMS some version of your name would appear  
18 in created by, correct?

19 A. Correct.

04:43 20 Q. Created date, is that a field in  
21 CMS that relates to the date that the comment  
22 text was created?

23 A. I believe so.

24 Q. Do you know what CMT underscore

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1 source means as a column heading?

2 A. I don't.

3 Q. This is going to be a little bit  
4 cumbersome to navigate around in, so what I  
5 would like you to do is hand me back the  
6 exhibit and I'm going to find for you the  
7 place where I am and then hand it back to  
8 you.

9 MR. BERNAY: I'll say this

04:43 10 appears to be just a repaginated version of  
11 Exhibit 17.

12 MR. HANKINSON: I'm not sure  
13 what the number is but this was marked  
14 yesterday.

15 MR. BERNAY: Yes.

16 MR. HANKINSON: And, again, I  
17 believe there may have been cutoff issues.

18 MR. BERNAY: Right. So I  
19 believe location ID runs sequentially in this  
20 one so if you want to just give us a location  
21 ID that could make for a better finding tool.

22 MR. HANKINSON: Apparently with  
23 some exceptions. Oh, it switches digit  
24 counts. Okay.

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1 MR. BERNAY: Right.

2 Q. Location ID 3655328 is the row

3 that I would like you to turn to, Ms.

4 Lawrence. Thank you very much.

5 MR. BERNAY: What's the -- the  
6 easiest way to find it, Tom, is there are two  
7 dates. What's the, I guess, the second date  
8 as you're going left to right in the column  
9 that you want to ask about?

04:44 10 MR. HANKINSON: Actually it's  
11 the third page of 3655328.

12 MR. BERNAY: Okay.

13 MR. HANKINSON: And it is the  
14 top two rows where JLawrence is in the  
15 created by column. The date would be -- the  
16 second date would be 28th of May '13.

17 MR. BERNAY: Okay.

18 Q. There you are. Correct?

19 A. Yes.

04:45 20 Q. Very good. So in the top two  
21 rows with a created date of May 28th, 2013  
22 appear comment text entries that you entered  
23 into CMS, correct?

24 A. Yes.

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1                   Q.       These comments have to do with  
2 Greenville Healthcare Associates, correct?

3                   A.       Yes.

4                   Q.       That's the practice that's at  
5 issue?

6                   A.       Yes.

7                   Q.       Your contact there appears to be  
8 Dee Ayad, the office manager; is that right?

9                   A.       Correct.

04:46 10                   Q.       This would have been less than a  
11 year ago. Do you happen to remember your  
12 interaction with Dee?

13                   A.       Vaguely. Yes. Somewhat.

14                   Q.       Did this practice want to cancel  
15 its subscription to PCN?

16                   A.       Yes.

17                   Q.       And did this practice want to  
18 switch to ContextMedia?

19                   A.       Yes.

04:46 20                   Q.       The reason that Dee Ayad gave  
21 you for switching was ContextMedia has  
22 scrolling news, weather, educational stories  
23 and also that she was looking for something  
24 different, correct?

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1 A. Correct.

2 Q. If you had gotten any other  
3 reasons from Diad you would have entered them  
4 into CMS, right?

5 A. Yes.

6 Q. And if someone else at  
7 PatientPoint had more knowledge about this,  
8 they would have entered something in CMS  
9 about it, correct?

04:47 10 A. Correct.

11 Q. So if I don't see another entry  
12 that contradicts this I would be reasonable  
13 to assume that PatientPoint's best  
14 information about the reason for the switch  
15 appears in that comment section, correct?

16 MR. BERNAY: Object to the form.

17 You can answer.

18 A. Correct.

19 Q. For business purposes if someone  
04:47 20 asks PatientPoint why did Diad of the  
21 Greenville Health Associates switch, this CMS  
22 entry is where PatientPoint would go to find  
23 the answer to that, correct?

24 MR. BERNAY: Object to the form.

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1 You can answer.

2 A. Yes.

3 Q. For instance, and I don't know  
4 why they would be interested, but if like a  
5 sponsor said it looks like you lost  
6 Greenville Healthcare Associates, tell me  
7 why, then PatientPoint would go to this CMS  
8 if they wanted to provide an answer, correct?

9 MR. BERNAY: Object to the form.

04:48 10 You can answer.

11 A. Yes.

12 Q. And that's the reason that you  
13 make these entries is to rely on them for  
14 business purposes, right?

15 A. Correct.

16 Q. That's why PatientPoint trains  
17 you to look at how to interact with customers  
18 on the phone and then input the relevant  
19 information into CMS, right?

04:48 20 A. Correct.

21 Q. If you look at the second row  
22 this is also an entry that was entered by  
23 you, correct?

24 A. Yes.

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1                   Q.     And it says that you let Dee  
2     know that only our technician can take down  
3     our equipment, right?

4                   A.     Yes.

5                   Q.     Do you remember that  
6     conversation?

7                   A.     Not to the T but since I wrote  
8     it here. I don't remember speaking it but  
9     I'm sure I did if I wrote it here.

04:49           10           Q.     You got the impression that Diad  
11    was confused at all about -- let me start  
12    over.

13                   Diad was not confused about who  
14    ContextMedia was, correct?

15                   A.     I don't think she was.

16                   Q.     It was pretty clear it was a  
17    different company, and that Greenville Health  
18    Care Associates wanted to go with that  
19    different company instead of PatientPoint,  
04:49           20    correct?

21                   A.     Yes.

22                   MR. BERNAY: Object to the form.

23                   A.     I would think so.

24                   Q.     And do you have any reason to

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1 believe that Diad didn't understand you when  
2 you said that only your technician should  
3 take down the equipment?

4 A. I don't think she misunderstood.

5 Q. In the WRN binder are there any  
6 instructions or scripts or any other material  
7 that's particular to a competitor as opposed  
8 to other competitors?

9 A. No.

04:50 10 Q. Is there any information in that  
11 WRN binder that's particular to ContextMedia?

12 A. No.

13 Q. Have you received instructions  
14 informally at any point about asking  
15 particular questions when a practice is  
16 switching to ContextMedia as opposed to  
17 another competitor?

18 A. No.

19 Q. Have you ever received  
04:51 20 instructions that when the competitor is  
21 ContextMedia, a different member of the team  
22 or a member of another team should deal with  
23 the switchout or callback to make inquiries  
24 of the customer?

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1                   A.        No.  No, it just -- no matter  
2        who it is, we really take the same -- take  
3        the same steps.  We make sure that everybody  
4        knows only PatientPoint can remove the  
5        equipment.  We're responsible for it.  We  
6        don't want them to be responsible if  
7        something would happen to it.

04:51                   Q.        If something happens to the  
9        equipment then you instruct the practice that  
10       they could be liable for that equipment?

11                   A.        Right, if something were to  
12        happen.

13                   Q.        Are you aware of any instances  
14        where a practice has had to pay any money to  
15        PatientPoint for any reason?

16                   A.        I -- personally I don't know of  
17        anybody.

18                   Q.        And there are times when the  
19        equipment is written off, correct?

04:52                   A.        Yes.  I think.  I don't see that  
21        end of it but --

22                   Q.        Are there times when you enter  
23        instructions in CMS to write off equipment?

24                   A.        No, I don't.  I don't get to see

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1 that. I don't do that. I don't take care of  
2 that.

3 Q. Are there times when you ask  
4 someone if equipment should be written off?

5 A. No.

6 Q. How should I say this when we're  
7 talking about the list from Vida?

8 A. Vida.

9 Q. Vida. You're engaging with her  
04:52 10 in some way about whether to leave the  
11 equipment there. What's the kind of entry  
12 that would go into CMS for that?

13 A. I would send the information to  
14 her and she would take care of whatever was  
15 going to be done. If that's something that  
16 was going to be done she would enter the  
17 information into CMS.

18 Q. So Vida also has access to CMS?

19 A. Correct.

04:53 20 Q. And her instructions are to  
21 record her actions with respect to a practice  
22 into CMS?

23 A. Yes.

24 Q. If she determines that a

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1 practice should be allowed to keep hardware  
2 then that would be reflected in CMS, correct?

3 A. Correct.

4 Q. Do you know if it's a separate  
5 field?

6 A. I don't know. I don't believe  
7 so.

8 Q. You said you don't believe so?

9 A. Correct. I don't think it is.

04:53 10 I think we're all in the same system.

11 Q. Comment field?

12 A. Correct.

13 Q. There could be a lot of  
14 different comments for each location?

15 A. Yes.

16 Q. And they'd be parcelled out by  
17 who made them and on what date?

18 A. Yes.

19 Q. Did Lori Smith, at some point,  
04:54 20 take on extra responsibilities for switchouts  
21 related to ContextMedia?

22 A. Yes.

23 Q. What were those  
24 responsibilities?

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1           A.     If someone from -- if somebody  
2     was switching over to ContextMedia she would  
3     take care of those accounts. We would send  
4     the information on to her.

5           Q.     So does that refresh your memory  
6     that you did receive instructions at some  
7     point where, if the competitor was  
8     ContextMedia, that it should be directed to  
9     someone else on your team?

04:54    10       A.     Yes.

11        Q.     When did that happen?

12        A.     Maybe 2012, somewhere around  
13     there, since it was happening a lot, and then  
14     we would just let her know so she can keep  
15     track of how things were happening.

16        Q.     And she would ask particularized  
17     questions as to ContextMedia, right?

18        A.     Correct.

19        Q.     That was one reason to direct  
04:55    20     them to her because had access to what  
21     questions were supposed to be asked?

22        A.     Yes. She would call the  
23     practice to remind them to please don't have  
24     the equipment taken down, let us take the

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1 equipment down. Don't let the other  
2 competitor take it down, we'll take care of  
3 that for you.

4 Q. Part of her duties were to, even  
5 more than you normally did, remind the  
6 practice not to take the equipment down,  
7 itself, or let anybody else, correct?

8 A. Correct.

9 Q. And Lori Smith also had certain  
04:55 10 additional questions that she was supposed to  
11 ask the practice about the switch to  
12 ContextMedia, right?

13 A. I think. I never knew what she  
14 did. I didn't know what all her  
15 responsibilities were. I just knew we would  
16 copy her on the e-mail and send that  
17 information to her. I don't know -- I didn't  
18 know all her responsibilities though.

19 Q. Did she ever discuss practices  
04:55 20 who switched to ContextMedia at the weekly  
21 meetings?

22 A. No.

23 Q. Did you ever discuss it with her  
24 informally in any way?

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1                   A.        No. I would just send the  
2        information to her and knew that she was  
3        ContextMedia's person to send all that  
4        information to.

5                   Q.        In what way were you told to do  
6        that? By e-mail or live or on the phone?

7                   A.        We may have had a meeting. I'm  
8        not sure. I don't remember. It was a while  
9        ago.

04:56            10           Q.        But you said it wasn't at a team  
11      meeting on a Friday, it was a special  
12      meeting?

13                   A.        It may have been or by e-mail.  
14        I don't recall how Amy told us to do it, but  
15        I just knew Lori was that person to send that  
16        information to.

17                   Q.        Would there normally be an  
18        e-mail if an instruction like that was given?

19                   A.        I can't recall. I can't recall.  
04:56            20        I don't know if it was done that way or by a  
21        meeting.

22                   Q.        Has anyone at PatientPoint ever  
23        spoken to you about the importance of the 30  
24        day termination period to efforts to resell

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1 or save the practice?

2 A. Yes. I mean, within that 30 day  
3 period then we had that time, we were like  
4 within like a two week period after that, go  
5 ahead and give them a call back to try to,  
6 you know, save them if we were able to but,  
7 you know, we still had that 30 day window. I  
8 always would call like in two weeks to see if  
9 anything has changed or if they've noticed  
04:58 10 anything different on the monitor. I always  
11 tried to put a new message up to see if that  
12 enticed them or not. Again, that rate wasn't  
13 too high but --

14 Q. If the practice didn't object  
15 would PatientPoint try to take as long as  
16 possible to take down the screen in order to  
17 give more time to save the practice?

18 MR. BERNAY: Objection to the  
19 form. You can answer.

04:58 20 A. If they had to have it done  
21 sooner, if they insisted, we obliged.

22 Q. If they were okay with 60  
23 days --

24 A. No, we wouldn't go that long.

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1 Q. You wouldn't go that long?

2 A. No. It's -- they took a form of  
3 the document and go by the enrollment form.

4 Q. But within the first two weeks  
5 of the 30 days you would, as a matter of  
6 practice and procedure, make efforts to save  
7 the practice, correct?

8 A. That was always my rule of thumb  
9 but maybe somebody was a little bit different  
10 but I always gave them two weeks so I  
11 wouldn't bombard them, but we were given that  
12 so we could try to save them in that time  
13 frame.

14 Q. The hardware, upon cancellation,  
15 either would be left with the practice or  
16 destroyed on the one hand, or shipped back  
17 for reuse, correct?

18 A. Correct.

19 Q. Is there any third option for  
20 hardware where it's shipped back if something  
21 else happens to it?

22 A. Not that I know of.

23 MR. HANKINSON: I think that's  
24 all I have.

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1 MR. BERNAY: All right. I just  
2 have one quick question for you.

3 DIRECT EXAMINATION

4 BY MR. BERNAY:

5 Q. I'd like to clarify the record.

6 Going back to the beginning of this  
7 deposition you were asked about practice  
8 messaging and the importance of refreshing  
9 and updating practice specific content so  
10 that it -- so that it does not go stale. I  
11 want to be sure that I understood your  
12 testimony correctly. Is it your opinion that  
13 Healthy Advice's content loop as a whole is  
14 boring and repetitive?

15 A. No.

16 Q. So when you testified before, if  
17 I understand correctly, you were saying that  
18 if a practice doesn't refresh its messages  
19 they can become boring and repetitive, its  
20 particular practice content?

21                   A.     No, the content is not boring  
22 and repetitive. That's updated every month.  
23 That's always changed. I just like to update  
24 their personal messages because that's always

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1 playing in between the content. That's  
2 always updated every month so that's --  
3 that's never the same.

4 Q. That's what I have.

5 RECROSS-EXAMINATION

6 BY MR. HANKINSON:

7 Q. Brief follow up, Ms. Lawrence.

8 A. Uh-huh.

9 Q. Practices sometimes tell you  
05:01 10 that they're switching to a competitor  
11 because the competitor's loop of content is  
12 longer, right?

13 A. Yes.

14 Q. And a longer loop repeats less  
15 often, correct?

16 A. Correct.

17 Q. Do practices sometimes report  
18 that they are cancelling because  
19 PatientPoint's content is boring or  
05:02 20 repetitive?

21 A. It may be to them. Not a  
22 hundred percent sure.

23 Q. They've indicated that it may be  
24 in certain instances?

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1                   A.        In the one e-mail, yes.  
2                   Q.        I don't have anything else.  
3                   MR. BERNAY: I'm done, as well.  
4                   MR. HANKINSON: Thank you very  
5                   much for coming in.  
6

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7                   JOYCE LAWRENCE  
8  
9  
10

\* \* \*

11                   (DEPOSITION CONCLUDED AT 5:01 P.M.)  
12

\* \* \*

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1 C E R T I F I C A T E  
2

STATE OF OHIO  
3 : SS  
COUNTY OF HAMILTON

I, Valerie Jones Conn, RPR, CRR, the  
undersigned, a duly qualified notary public  
within and for the State of Ohio, do hereby  
certify that JOYCE LAWRENCE was by me first  
duly sworn to depose the truth and nothing  
but the truth; foregoing is the deposition  
given at said time and place by said witness;  
deposition was taken pursuant to stipulations  
hereinbefore set forth; deposition was taken  
by me in stenotype and transcribed by me by  
means of computer; that the transcribed  
deposition was made available to the witness  
for examination and signature and that  
signature may be affixed out of the presence  
of the Notary Public-Court Reporter. I am  
neither a relative of any of the parties or  
any of their counsel; I am not, nor is the  
court reporting firm with which I am  
affiliated, under a contract as defined in  
Civil Rule 28(D) and have no financial  
interest in the result of this action.

15 IN WITNESS WHEREOF, I have hereunto set my  
hand and official seal of office at  
16 Cincinnati, Ohio this 24th day of March,  
2014.

20 My commission expires: Valerie Jones Conn, RPR, CRR  
September 4, 2017 Notary Public - State of Ohio

21  
22  
23  
24

day of March,

LITIGATION SUPPORT SERVICES, INC.  
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